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ABSTRACT

A MULTI CASE STUDY OF SEXUAL ASSAULT POLICIES  
AND PROCEDURES OF TWO RESIDENTIAL HIGHER  
EDUCATION INSTITUTIONS IN THE MIDWEST

by

Slandah Dieujuste

Chair: Jay Brand

## ABSTRACT OF GRADUATE STUDENT RESEARCH

Dissertation

Andrews University

School of Education

Title: A MULTI CASE STUDY OF SEXUAL ASSAULT POLICIES AND  
PROCEDURES OF TWO RESIDENTIAL HIGHER EDUCATION  
INSTITUTIONS IN THE MIDWEST

Name of researcher: Slandah Dieujuste

Name and degree of faculty chair: Jay Brand, Ph.D.

Date completed: April 2018

### Problem

Sexual misconduct is a public health and safety issue affecting most if not all higher education institutions in the United States. Over the past fifteen years, student on student sexual misconduct cases occurring on American college and university campuses have caught the attention of the federal government and put the American public on high alert. As a response to public outcry, Congress enacted several laws that imposed requirements on institutions regarding how they address sexual misconduct cases to how and when they publish crime statistics. Although many research studies have looked into the issues surrounding sexual misconduct cases on college and university campuses, little research has been conducted to explore institutional compliance across institutional type

and understand the challenges that college officials tasked with implementation and administration of such sexual misconduct policies face in their work.

### Purpose of Study

The purpose of this qualitative study was to conduct a multi-case study of two residential Midwestern higher education institutions to 1) understand how compliant the two institutions' sexual assault policies and procedures are with federal mandates, 2) discover how each institution compares with one another in terms of compliance, 3) identify the challenges that campus officials from the two Midwestern institutions face in the implementation and administration of required federal mandates, and 4) explore how the campus officials are meeting their identified challenges.

### Method

The research was conducted at one four-year private university and one two-year community college in the Midwest. To answer Research Questions 1 and 2, a policy analysis of each institution's policies and procedures was conducted using a rubric adapted from federal guidelines. To answer Research Questions 3 and 4, six semi-structured face to face interviews were conducted with two to four key administrators from each institution.

### Findings

Institutions are not in full compliance with federal guidelines. The lack of compliance found was not willful but rather a result of overwhelming legislation that institutions struggle to follow because of the complexities of internal and external factors.

College officials share similar challenges and have increased their reliance on internal and external partnerships to meet those challenges.

Andrews University

School of Education

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EDUCATION INSTITUTIONS IN THE MIDWEST

A Dissertation

Presented in Partial Fulfillment  
of the Requirements for the Degree  
Doctor of Philosophy

by

Slandah Dieujuste

April 2018

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Date approved



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## LIST OF ABBREVIATIONS

ASCA	Association of Student Conduct Administrators
ASJA	Association for Student Judicial Affairs
ATIXA	Association of Title IX Coordinators
AU	Andrews University
CoC	Code of Conduct
CFO	Chief Financial Officer
CSA	Campus Security Authority
DCL	Dear Colleague Letter
DOE	Department of Education
DOS	Dean of Students
HR	Human Resources
IRB	Institutional Review Board
NCHERM	National Center for Higher Education Risk Management
NCVS	National Crime Victimization Survey
NCWSV	National College Women Sexual Victimization Study
NIH	National Institute of Health
NIPSVS	National Intimate Partner and Sexual Violence Survey
NVAWS	National Violence Against Women Survey
OCR	Office of Civil Rights
OPE	Office of Postsecondary Education

OSHA	Occupational Safety and Health Administration
PSH	Policy on Sexual Harassment
RA	Resident Advisor
RAINN	Rape, Abuse & Incest National Network
SANE	Sexual Assault Nurse Examiner
SaVE	Sexual Violence Elimination
VAWA	Violence Against Women Act
VP	Vice President
VPSA	Vice President for Student Affairs



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## CHAPTER 1

### INTRODUCTION

#### **Background**

Reports of sexual assaults on college campuses have escalated over the past decade (Karjane, Fisher & Cullen, 2002; Tjaden & Thoennes, 2006; White House Task Force to Protect Students From Sexual Assault [Task Force], 2014). The interest in this problem has partly been spurred by the release of statistics mandated by federal law and the media's coverage of the prevalence of sexual misconduct on college campuses. Recent publicized cases of sexual misconduct involving institutions such as Duke University, Columbia University, University of Oregon, and the U.S. military academies have shocked the nation and thrust the subject of rape to the forefront (Dockterman, 2014; Lipka, 2005, 2006; Vaughan, 2015). As a result, terms such as "date rape" and "acquaintance rape" have permeated the public discourse and contributed to significant debate over how higher education institutions are responding to sexual misconduct on their campuses (Fisher, Cullen, & Turner, 2000; Lowentheil, 2013).

#### **Statement of Problem**

Sexual misconduct is a public health and safety issue affecting most if not all higher education institutions in the United States (Fisher et al., 2000; Lawyer, Resnick, Bakanic, Burkett, & Kilpatrick, 2010). Over the past fifteen years, student on student sexual misconduct cases occurring on American college and university campuses have

caught the attention of the federal government and put the American public on high alert. Although cases of sexual misconduct have always been prevalent on college campuses, the degree to which such cases are discussed in the media or openly on college campuses is new. Since 2012, complaints of sexual assault involving students to the U.S. Department of Education (DOE) have increased more than fivefold, reaching 96 in 2013 amid heightened pressure (Binkley & Wagner, 2014). In 2015, there were 55 open Office of Civil Rights (OCR) investigations over how colleges and universities allegedly mishandled sexual assault and harassment complaints on their campuses (Hanna, Grinberg, & McLaughlin, 2014; Kuta, 2014). As of March 01, 2018, an increased number of complaints since the issuance of the 2011 Dear Colleague Letter (DCL) have resulted in 337 open investigations (*Chronicle of Higher Education*, 2018). As a response to public outcry, Congress enacted several laws that impose requirements on institutions from how they address cases of sexual assault to how and when they publish crime statistics (Wilson, 2014).

According to federal guidelines, sexual misconduct is a subset of sexual harassment, which includes sexual assault and unwanted sexual contact without the consent of the victim. Although, the sexual harassment umbrella also includes cases of domestic violence, dating violence and stalking, the present study will focus on sexual assault or rape.

The problem of sexual assault on college and university campuses can be broadly conceptualized to include both male and female student victims as well as employees. However, the present study will focus on male students victimizing female students because research has shown that female students face a high risk of victimization by male

students (Breiding et al., 2014; National Sexual Violence Resource Center, 2012, 2013, 2015). The national statistics on sexual assault varies because research studies are not consistent in their definitions of what constitute sexual assault and consent. For this reason, some studies have estimated the rate of women being victimized while in college to be one out of five women while others have found the ratio to be much less (Breiding et al., 2014; Fisher et al., 2000; Karjane et al., 2002; Task Force, 2014). For example, a national study conducted by the Fischer et al. (2000) concluded, “for every 1,000 women attending [an] institution, there may well be 35 incidents of rape in a given academic year based on a victimization rate of 35.3 per 1,000 college women” (p. 11). Whether experts can agree on the rate of victimization or not, reports of college women sexual assault victimization are concerning.

The response to sexual assault cases is often complicated because alcohol is often a factor in college women sexual victimization (Benson, Gohm, & Gross, 2007; Griffin, Umstattd, & Usdan 2010; Krebs, Lindquist, Warner, Fisher, & Martin, 2007). A national survey published by the Harvard School of Public Health found that 72% of sexual assault victims experienced rape while intoxicated (Mohler-Kuo, Dowdall, Koss, & Wechsler, 2004). Another study (Lawyer et al., 2010) found that 96.1% of the women victims surveyed consumed alcohol prior to the assault. This study supports other research (Finley & Corty, 1993; Testa & Livingston, 2009), which found that alcohol was more commonly involved than physical force in sexual assault among college women.

Whether or not alcohol was involved in a sexual assault, the physical, emotional and psychological impact of such assault on a victim is inescapable. The effects of victimization can range from academic withdrawal, to mental illness such as depression,

post-traumatic stress disorder, to suicidality (Edwards, Kearns, Calhoun, & Gidycz, 2009; Guerette & Caron, 2007). In addition to these consequences, women victims often choose not to return to campus for fear of facing their attackers again. Furthermore, female victims of acquaintance rape, where the attacker is known by the victim, often suffer from shock, humiliation, “loss of self-esteem, social isolation, anger, distrust of others, fear of AIDS, guilt, and sexual dysfunction” (Yeater & O’Donohue, 1999, as cited in O’Callaghan, 2007, p. 100).

The prevalence of sexual assault or rape on college campuses and its adverse effects on the victims’ academic, social, and psychological health have made these types of cases a high priority for the federal government. This has resulted in an unprecedented number of legislation and sub-regulatory guidance tying federal funding to how institutions respond to sexual assault cases on their campuses. Title IX of the Education Amendment of 1972 is an example of such legislation. In 2011, the U.S. OCR issued a sub-regulatory Guidance Letter expanding the interpretation of Title IX to apply to student on student sexual assault. Following this DCL (OCR, 2011), the OCR placed 55 colleges and universities under investigations for their alleged failures to effectively and promptly respond to sexual assault cases in accordance with federal guidelines.

Despite the prevalence of sexual assaults on college campuses and its disruption of victims’ lives and the college community, a large number of institutions fall short of adequately addressing the problem as dictated by federal guidelines (Karjane et al., 2002; U.S. Senate Report, 2014). Both the 2014 congressional report commissioned by Senator Claire McCaskill and the 2014 Task Force noted that one of the reasons why rape is such an underreported crime on college and university campuses is that there is a lack of

appropriate processes and procedures in place for dealing with sexual assault cases (Fisher et al., 2000).

Although several studies have examined the scope of sexual assault on college campuses (Fisher et al., 2000; Karjane et al., 2002) and the effects on victims (Guerette & Caron, 2007; Gutierrez, Thakkar, & Kuczen, 2000), little research has been conducted as a qualitative comparative analysis of the sexual assault policies and procedures of community colleges and four year private institutions, particularly in relation to their compliance with federal guidelines. Furthermore, few studies have sought to understand the challenges that administrators face in their implementation and administration of such policies and procedures and how they respond to those challenges.

Given higher education institutions' dependence on federal funding and their mission to ensure student success, an in-depth analysis of the content of their sexual assault policies and procedures will shed light on how they are dealing with one of the major issues facing college female students in American higher education institutions. In addition, understanding the challenges that administrators are facing in the implementation and administration of sexual assault policies and procedures may shed light on the difficulties that exist at the institutional level that may not be apparent to lawmakers.

### **Purpose of the Study**

The purpose of the research is to conduct a multi-case study of two residential Midwestern higher education institutions to 1) understand how compliant the two institutions' sexual assault policies and procedures are with federal mandates, 2) discover how each institution compares with one another in terms of compliance, 3) identify the

challenges that campus officials from the two Midwestern institutions face in the implementation and administration of required federal mandates, and 4) explore how the campus officials are meeting their identified challenges.

### Guiding Research Questions

1. How compliant are the institutions' student on student sexual assault policies and procedures to federal guidelines?
2. How do the sexual assault policies and procedures of the two Midwestern residential higher education institutions compare with one another in terms of their compliance to federal mandates?
3. What challenges do college and university officials face in their implementation and administration of federal mandates pertaining to the policies and procedures studied?
4. How are these colleges and universities meeting their identified challenges?

This study utilized a qualitative research approach. Two distinctly different residential institutions in the Midwest formed the convenience sample for this study: one private 4-year university and one community college. Both institutions provide on-campus housing for students. To answer Questions 1-2, a policy analysis of the sexual assault policies and procedures of each institution was conducted. Participating institutions were asked to share all policies, protocols, brochures and education program materials. A rubric was developed using the checklist created by the federally-sponsored Task Force (2014) to evaluate institutional compliance level to federal guidelines.

The compliance level of each institution was compared with one another where common and unique elements of each institutional policies and procedures were noted.



To answer Research Questions 3 and 4, semi-structured face to face interviews were conducted with two to four key administrators from each institution to understand the challenges that they face in their implementation and administration of sexual assault policies and how they were meeting the identified challenges.

### Assumptions

One assumption of the research study was that the college personnel, who were involved in the research study, by the nature of their position, will have a working knowledge of federal guidelines pertaining to college student sexual assault. The second assumption was that since federal regulations make no differentiation between institutional type, policies and procedures relating to student on student sexual misconduct should not vary much among institutions regardless of the institutional type or classification. The DCLs (DOE, 2011, 2015) and the 2013 reauthorization of the Violence Against Woman Act (VAWA) specify that the imposed requirements apply to all school districts, colleges and universities who receive Title IX funding. None of those key guidance documents provide a set of standards specific to institutional type.

### Rationale

A college education is often viewed as the gateway to opportunity with substantial benefits for both individuals and society (Baum, Ma, & Payea, 2010). According to their College Board Report, *Education Pays*, higher education has substantial benefits for individuals and society. While a college degree does not guarantee a job, those with a college degree were found more likely to be employed. Furthermore, the earning power of those with a college degree is also significantly higher than that of those without a

degree. In 2005, the average full-time employee with a Bachelor of Arts degree earned 62% more than full-time workers who did not hold a comparable degree. In some cases, positions requiring a college degree pay twice as much per hour as those requiring a high school diploma.

Higher education not only offers substantial benefits for individuals, but also contributes positively to society. The fact that higher education leads to low poverty and unemployment rates means that there are fewer people who are in need of the support of governmental social services. The College Board Report (Baum et al., 2010) found that people with a college education are less likely to be obese and smoke. College degree holders are more socially and civically engaged. They are more likely to vote, volunteer and donate blood. Thus, a well- educated citizenry benefits society in ways that include lower unemployment rates and low dependency on social safety nets.

A sexual assault can negatively impact the opportunity that student victims have to obtain a college degree, and thus threatens their quality of life and contributions to society. As stated earlier, the effects of victimization can range from academic withdrawal, to mental illness such as depression, post-traumatic stress disorder, to suicidality (Guerette & Caron, 2007; Tjaden, & Thoennes, 2006). In addition, female victims often choose not to return to campus for fear they may face their attacker again. The results of victimization can negatively impact a victim's self-confidence and ability to feel connected to the campus community (Cortina et al., 1998, as cited in O'Callaghan, 2007).

The societal cost of sexual assault is also tremendous. Excluding child sex abuse cases, the annual cost of victimization can rise to \$127 billion (Miller, Cohen, &

Wierama, 1996, as cited in Krebs et al., 2007). Given the importance of a college education for victims of rape, as well as the societal costs for those who experience this trauma, addressing the issues of sexual assault must be a priority for educators and policy makers.

### **Significance of Study**

Sexual assault is a real concern at American higher education institutions. Increased federal and public pressures as well as civil litigations will continue to ensure that addressing sexual assault on college campuses be an institutional priority. Institutional policies regarding sexual misconduct can either encourage or discourage victims from seeking help, which can directly impact their recovery. Ineffective or inadequate policies could negatively impact reporting and thereby impact the safety and cohesiveness of the college community and increase the vulnerability of the institution to civil litigations and federal penalties. Factors such as feelings of shame, embarrassment and concerns of not being believed can affect a victim's willingness to report (Fisher et al., 2000; Sable, Danis, Mauzy, & Gallagher, 2006). Those who do report often experience a multitude of institutional barriers that prevent them from obtaining justice (Jones, Alexander, Wynn, Rossman, & Dunnuck, 2009; Karjane et al., 2002).

The United States federal government has made clear that sexual harassment/misconduct policies at higher education institutions is a national priority. In their DCL (OCR, 2011) to colleges and universities, the OCR, "advises recipients [of Title IX funding] to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the 2001 Guidance" (p. 6). In introducing the new sexual

assault guidelines in a press conference at the University of New Hampshire on April 4, 2011, Vice President Joe Biden, exclaimed, "Rape is rape is rape. The sooner universities make that clear, the sooner we'll begin to make progress" (Travers & Bradley, 2011, para. 3). Thus, the federal scrutiny over how higher education institutions respond to sexual assault may continue to increase.

There often exists a discrepancy between directives issued at the macro level of the federal government and the micro implementation of those directives into policies and procedures at the higher education institutional level. This study seeks to provide an analysis of how the selected colleges and universities are dealing with one of the most pressing issues facing higher education institutions today. Furthermore, it will assist in the understanding of the challenges that college officials face as they try to comply with federal mandates. This is crucial as it may provide policy makers with insight into the work of the officials charged with the implementation and administration of enacted policies. This may assist in identifying ways to help college officials meet their identified challenges.

### **Definition of Terms**

The following definitions are utilized throughout the study and are based on the research of best practice in higher education.

*Adjudication:* It is used in this study as an umbrella term to encompass all aspects of the college student disciplinary complaint resolution process including investigation, determination of an accused student's responsibility, and appeal (Stoner & Lowery, (2004).

*College Campus:* refers to “all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the college, including adjacent streets and sidewalks” (Stoner & Lowery, 2004, p. 19).

*College Officials:* The term includes staff employed by the college who performed assigned administrative or professional responsibilities (Stoner & Lowery, 2004).

*Complainant:* The student who is making the complaint or the alleged victim of a sexual harassment/misconduct case (OCR, 2011). There are disagreements among practitioners regarding the appropriate usage of terms. Although the term “complainant” is used interchangeably with “survivor” and “victim,” some regard the usage of the latter two terms as a premature pronouncement of judgement on the allegations.

*Consent:* According to the federal website, NotAlone.gov (*You Are Not Alone*, 2017), consent is defined as:

The affirmative, unambiguous, and voluntary agreement to engage in a specific sexual activity during a sexual encounter. Under this definition, an individual who was asleep, or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or who was under duress, threat, coercion, or force, would not be able to consent. Further, one would not be able to infer consent under circumstances in which consent was not clear, including but not limited to the absence of “no” or “stop,” or the existence of a prior or current relationship or sexual activity.

The consent definition above is one that is commonly utilized on college and university policies. A common complaint is that the alleged victim was incapacitated to the point that they could not willingly consent to the sexual act.

*Date Rape or Acquaintance Rape:* The two terms are used interchangeably to refer to a rape or sexual assault that it is committed by a known perpetrator. Date rape can

be a surprise attack by a trusted friend or dating partner to a new acquaintance who expects sex as repayment for a night out (Fisher et al., 2000).

*Fondling: The Handbook for Campus Safety and Security Reporting* (U.S. DOE, Office of Postsecondary Education [DOE-OPE], 2016), defines fondling as:

The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity. (p. 38)

*Incapacitation: According to the Association of Title IX Administrators (ATIXA) 's Sex/Gender-Based Harassment, Discrimination and Sexual Misconduct Model Policy* (Sokolow, Lewis, Schuster, & Swinton, 2015):

Incapacitation is a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing consent (e.g., to understand the “who, what, when, where, why or how” of their sexual interaction). . . . Incapacitation can occur mentally or physically, from developmental disability, by alcohol, or other drug use, or blackout. (p. 13)

The research studies and the policies that were analyzed utilize a similar definition as the above. The determination of whether or not the respondent knew of the complainant’s condition is based on the reasonable person standard.

*Policy: Based on the 2004 Model Code, published by Stoner & Lowery (2004), the study utilizes the term policy to mean, “written regulations of the College as found in, but not limited to, the Student Code, Residence Life Handbook, the College or University web page and computer-use policy, and Graduate/Undergraduate Catalogs” (p. 22). This definition seems consistent with best practice.*

*Process: a series of actions or operations conducting to an end (Webster Dictionary).*

*Rape and Sexual Assault:* The two terms are used interchangeably in this paper.

According to the NotAlone.gov website (*You Are Not Alone*, 2017), rape and sexual assault includes:

Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's *consent*; or the penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent. (p. 3)

Consent that is freely given is crucial to the determination of whether or not a non-consensual sexual act occurred.

*Residential College or University:* Refers to an institution that provides on-campus housing for its students. In a residential institution, the staff works to create a safe, nurturing and living and learning environment for resident students (O'Hara, 2001).

*Respondent:* The student who is being accused of sexual harassment/misconduct (OCR, 2011). There are disagreements among practitioners regarding the appropriate usage of terms. Some utilize terms such as "accused student" and "perpetrator." Others argue that those two terms pass a premature pronouncement of judgement on the merit of the allegations. All three terms are used interchangeably in this study since they are found in the literature and policies analyzed.

*Sexual Harassment:* The following definition is taken from the NotAlone.gov website (*You Are Not Alone*, 2017) and captures the best practice definition of sexual harassment. It states:

Unwelcome conduct of a sexual nature, including but not limited to unwelcome sexual advances; requests for sexual favors; or other verbal or nonverbal conduct of a sexual nature, including *rape*, *sexual assault*, and *sexual exploitation*. In addition, depending on the facts, dating violence, domestic violence, and stalking may also be forms of sexual harassment. (*You Are Not Alone*, 2017)

Sexual harassment is an umbrella term that includes a number of other non-consensual sexual conduct.

*Sexual Assault (Sex Offenses): The Handbook for Campus Safety and Security Reporting* (DOE-OPE, 2016) defines sexual assault as “any sexual act directed against another person, without consent of the victim, including instances where the victim is incapable of giving consent” (p. 57).

*Sexual Violence:* According to the 2011 DCL published by the OCR, sexual violence is defined as:

Physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent (*e.g.*, due to the student’s age or use of drugs or alcohol, or because an intellectual or other disability prevents the student from having the capacity to give consent). A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion. (p. 1)

*Statutory Rape:* According to *The Handbook for Campus Safety and Security Reporting*, statutory rape is defined as, “sexual intercourse with a person who is under the statutory age of consent” (DOE-OPE, 2016, p. 58).

*Title IX Investigation:* According to the 2014 OCR’s Q&A for Title IX Officers, a Title IX investigation is the process by which schools resolve sexual violence complaints:

This includes the fact-finding investigation and any hearing and decision-making process the school uses to determine: (1) whether or not the conduct occurred; and, (2) if the conduct occurred, what actions the school will take to end the sexual violence, eliminate the hostile environment, and prevent its recurrence, which may include imposing sanctions on the perpetrator and providing remedies for the complainant and broader student population. (p. 24)

Title IX investigators are required to have specialized training that ensure fairness and impartiality of the process.



## **Limitations**

The research on rape is often methodically problematic and can lead to varying results. The varying statistics on the occurrence of rape on college campuses can be greatly attributed to three things. First, the definitions of rape and consent vary broadly among institutions based on their state's definitions (Karjane et al., 2002). This can lead to inconsistencies in reported rape statistics. Second, defining such terms as "campus," and "student," often proves challenging in the mandatory institutional crime statistics. Through their research of over 2,438 colleges and universities, Karjane et al. (2002) found that institutions were confused as to how to report statistics involving sexual assault occurring off-campus or during breaks period. Their findings revealed that just 37% of the schools studied correctly classified crimes as required by federal law. The third factor that contributes to the varying statistics on the occurrence of rape on college campuses is that the questions that researchers use to determine whether an incident of sexual assault occurred are not often consistent (Fisher et al., 2000). Thus, these complexities make evaluative comparison of institutions' policies to federal guidelines difficult because of the difference in terms and because of how assaults are compiled and calculated by institutions.

There are also limitations that are inherent to qualitative studies. First, the small sample size means that its results cannot be generalized to large numbers of institutions or college officials. Second, the results of the study may be highly interpretative where the analysis of the data relies on the researcher's interpretations and the influence of possible biases. The convenience sampling limits the results of this study from being used to draw conclusions about other private or community college institutions. A fourth

limitation is the assumption that interview participants are forthright when they may not in fact be.

### **Delimitations**

There are several delimitations to the study. First, the study was delimited to two residential institutions in the Midwest. Second, data was gathered through content analysis of written processes/policies and face to face interviews. Third, the qualitative data were gathered through the lenses of the college officials who were charged with implementing sexual assault policies. No data were gathered from students or faculty. Fourth, the results of the study are based on the knowledge of the participating officials interviewed. Participating college officials' knowledge of the federal guidelines pertaining to college student sexual assault may vary based on their level of position and direct experience in handling sexual assault cases. While the last three delimitations do not pertain to qualitative research, they are specific to the implementation of this research study.

### **Summary**

Chapter 1 described the problem of rape in American society and university campuses. The chapter also discussed the statement of the problem, purpose of the study, research questions, and the research approach that will be used. The rationale, significance, and definitions of the key terms that were used in the study were discussed. Finally, the chapter discussed the limitations and delimitations of the study.

Chapter 2 provides an overview of the literature on sexual assault and relevant case laws. Chapter 3 outlines the guiding research questions and describes the qualitative

approach used in the study, including the population, methods of data collection and the procedures that were used to analyze the data. Chapters 4 and 5 respectively present the findings and analysis of the policies analyzed and interview findings. Chapter 6 concludes with an overview of the main findings and a discussion of the implications for research and practice for higher education institutions. Recommendations are provided for practitioners.

## CHAPTER 2

### LITERATURE REVIEW

#### **Introduction**

This chapter discusses the relevant literature on sexual assault against women in America. The literature review is organized into five sections. The first section provides a review of the history of rape in American society and an overview the prevalence of rape in American society. The second section provides an overview of sexual assault on American college and university campuses. The third section covers the impact of sexual assault to American Society. The fourth section of the chapter deals with sexual assault legislative mandates. Finally, the fifth section deals with the history and current practice of regulating student behavior on college and university campuses.

#### **History of Rape in American Society**

Rape in America has a long, complicated history that is intertwined with both sexism and racism. Historically, women victims were often portrayed as sexualized beings and their rapes justified and explained by their so called ‘permissiveness’. According to Gavey (2005), “women were just not to be believed about rape—or, even if they were, they were just as likely to be blamed for the whole event” (p. 18). This made it difficult for women victims to report their experiences and obtain justice. If rape could not be blamed on the permissiveness of women, the dominant view that women have an “unconscious ‘rape wish,’ ” a desire to be sexually dominated by men was used as a

justification for their rape (Weis & Borges, 1973, p. 79, as cited in Gavey, 2005). Rape responses were not only discriminatory against women but also racially and culturally biased. Historically, rapes of certain kinds of women (white, “respectable” and sexually chaste) by certain kinds of men (men of color, working-class) were often condemned while others that fell outside of those parameters were often dismissed by the police (Gavey, 2005, p. 18).

Rape laws made it hard for women to report abuses and even more difficult for a rape conviction to be obtained. As late as the 1970s, 15 states still had laws requiring corroboration in rape cases. For example, in order for a rapist to be convicted in New York, the prosecution had to provide “independent corroboration” on three points: (1) penetration had occurred; (2) the woman didn’t consent to intercourse; and (3) identification of the rapist. In order for penetration to be corroborated, the man had to ejaculate—an experience that did not always occur—and the woman had to be a virgin. If she was threatened with a weapon and did not put up a fight or had no visible bruises to show that she fought off her attacker, then she could not corroborate that she did not consent. And since most rapes do not have eye witnesses, it was almost impossible for her to corroborate the identification of her attacker (Davis, 1999).

Rape laws and our views of rape have evolved in the past two decades. No longer is it legally necessary for physical force to be present in order for a rape to be considered as having taken place. For example, the issue of consent has evolved to take into account the incapacitation of the victim. Thus, legal definitions of sexual assault now include one’s ability to provide consent without incapacitation due to alcohol or other drugs and/or inability to provide consent (i.e., asleep or unconscious).

The change of rape laws also reflected the changing views of rape in American society. The popular notion that rape is a violent act committed in a dark alley by a stranger, no longer holds true. Experts consider this kind of rape rare and have found the majority of rapes are “committed by an intimate partner or someone that is known by the victim” (Karjane et al., 2002, p. x). Terms such as, acquaintance and date rape that are used to describe such phenomena, conjure a different sort of image than that of the stranger rape. Over the past two decades, date rape has replaced stranger rape as the dominant form of rape (Gavey, 2005).

### **Research on Sexual Predators**

Research on sex offenders have largely been based on incarcerated offenders (Connor, Copes & Tewksbury, 2011; Sully, 2013). The groundbreaking rapist typology published by Groth and Birnbaum (1979) debunked the long-held belief that rape was primarily motivated by deviant sexual impulse. Their research found that the most common type of rapists was the “power” rapist and the “anger” rapist. The power rapist had a need to exert physical and psychological control over his victims while the anger rapist had a hostility towards women and a desire to inflict them harm. Other research found that perpetrators are likely to be victims of physical, sexual abuse, and neglect (Briggs, 1995; Woods, 2003).

Since reporting of rapes are so few, the vast majority of rapists have been left out of research studies (Lisak, 2011). The few studies that have been conducted have found a high rate of recidivism among rapists. Weinrott and Saylor (1991) and Abel, Becker, Cunningham-Rathner, Mittelman, & Rouleau (1988) have found that the average number of victims of a rapist can range from seven to 11. Other research has found that

rapists have offended multiple times beginning in their adolescence (Lisak & Miller, 2002; Nisbet, Wilson, & Smallbone, 2004).

The research on interpersonal violence largely began in the 1980s with a number of studies documenting both domestic and sexual violence within the college-aged populations of 18- to 24-year-olds. Through his extensive research, David Lisak (2011) found: 1) the majority of victims know their abusers; 2) victims of interpersonal violence do not often report the crimes; and 3) most perpetrators do not face any legal consequences. His research and that of others gave rise to terms such as “date rape” and “acquaintance rape.” These types of rape conjure a relationship between the perpetrator and victim.

While earlier studies were conducted on incarcerated rapists, very few were conducted on the non-stranger or acquaintance rapists until the mid-1980’s. Dubbed as the “undetected rapists,” these men do not consider themselves rapists (Lisak, 2011). They 1) can easily identify their “likely” victims; 2) are sophisticated in grooming their victims and physically isolating them; 3) they have strong impulse control and are able to utilize minimal violence to coerce their victims into submission; 4) typically do not utilize physical but rather make use of psychological weapons such as manipulation, power and control; and 5) utilize alcohol to deliberately render their victim vulnerable or unconscious.

The undetected rapists have been found to be as likely to be serial rapists as incarcerated rapists. In a study of 1882 college men conducted by Lisak and Miller (2002), more than 6% of the participants described behaviors that could be construed as rape or attempted rape. Alarming, more than 80% of the participants admitted to

engaging in sexual intercourse with women who were incapacitated due to alcohol or drugs. This has important implications for colleges and universities as such research dispels the view that the college rapist is a decent guy who allowed alcohol to cloud his judgment. It also requires institutions to be more intentional about the prevention efforts to educate the college community.

### **Prevalence of Rape and Sexual Assault**

Feminists as well as congressional groups have fought to change how rape is viewed and responded to in American society. A number of legal battles and federal legislation over the past two decades have tried to ensure that laws and policies are not biased towards rape victims. The surge of public policy interests in rape cases may signal that as a society, we are beginning to realize and acknowledge the prevalence of rape in America.

Despite the changing rape laws and society's views of rape, sexual assault remains a public health and safety issue in American society. According to the National Violence Against Women Survey (NVAWS), more than 18 million have been raped, with approximately 300,000 of the assaults being committed per year (Tjaden & Thoennes, 2006). The Rape, Abuse, and Incest National Network (RAINN) (2018) estimates that based on crime statistics published by the Department of Justice's National Crime Victimization Survey (NCVS), "every 10 seconds, another American is sexually assaulted" (p. 1). Although this statistic comprises both male and female victims, research is clear that female victims of sexual assault far outnumber male victims.

A 2011 national survey conducted by the National Intimate Partner and Sexual Violence Survey (NISVS) highlights the prevalence of sexual assault in America,



especially among women. The NIPSVS, a random national telephone survey of English and/or Spanish U.S. population speakers older than 18 years old, completed 16,507 interviews (9,086 women and 7,421 men) regarding sexual violence, stalking, and intimate partner violence. In this study, sexual violence was defined as “rape (completed or attempted forced penetration or alcohol – or drug-facilitated penetrations) and sexual violence other than rape, including a victim being made to penetrate a perpetrator, sexual coercion (non-physically pressured unwanted penetration), unwanted sexual contact (kissing, touching), and noncontact unwanted sexual experiences (being forced to view sexually explicit materials)” (Breiding et al., 2014, p. 3). According to the survey, 1 in 5 women (18.3%) and 1 in 71 men (1.4%) men are raped during their lifetime. An “estimated 15% of women (18.3 million women) have experienced sexual coercion” (p. 6). In addition, among female victims of completed rape (completed forced penetration and completed alcohol- or drug-facilitated penetration), an estimated 78.7% before age 25 years were victims and 40.4% before age 18 years” (p. 11). One of the issues of this survey lies with its definition of rape that included both completed and attempted rape into the same category. This may have resulted in higher statistics of rapes. However, the study supported other findings from rape studies. For example, it is consistent with other research studies that have found that the majority of rape is committed an acquaintance (Karjane et al., 2002; Krebs et al., 2007; Gavey, 2005). Almost 92% of the women surveyed in the NIPSVS reported being raped by either an intimate partner or someone the victim knows.

The prevalence of acquaintance rape among women is not only common in the general American society but also on college and university campuses, where the

majority of rapes are perpetrated by an acquaintance or someone the victim knows (Bachman, 1993; Karjane et al., 2002). Studies suggest that college women are at great risk for date or acquaintance rape (Fisher et al., 2000; Task Force, 2014; Zinzow, 2011). According to a 2007 Campus Sexual Assault (CSA) study published by the U.S. Department of Justice, of the 5,446 college women anonymously surveyed, 19% reported being victims of sexual violence while in college where the nonconsensual sexual activities ranged from touching to penetration (Krebs et al., 2007). The National College Women Sexual Victimization Study (NCWSV), which included participants from randomly selected two- and four-year institutions, found about 5% of females are sexually victimized per year while in college. Over the course of a typical five-year-long college career, the percentage is more than concerning (Fisher et al., 2000). Other researchers have estimated the rate of college female victimization to be one in five (Breiding et al., 2014; Karjane et al., 2002).

Many studies (Cranney, 2015; Kardian, 2017; Krebs et al., 2007; Kimble, Neacsu, Flack, & Horner, 2008) have also found consistent themes in terms of where and when sexual victimizations occur in college. For example, a U.S. Department of Justice 2007 study, found that students were more likely to be sexually assaulted during their first two years of college than their last two years (Krebs et al., 2007). The higher rate of victimization occurring in the early college years may be due to the fact that freshmen and sophomore students tend to be more naïve about their environment and succumb to more pressure to make friends. The same U.S. Department of Justice study found substantial consistency on when sexual assault occurs on college campuses. According to

the study, most acts of victimizations occurred in October and on Saturdays between midnight and 6:00 a.m.

### **Alcohol and Sexual Assault**

The use and abuse of alcohol and other drugs perpetuate the rape culture on college and university campuses. In fact, sexual assault cases are often complicated because alcohol is almost always a factor in college women sexual victimization (Benson et al., 2007; Griffin et al., 2010; Krebs et al., 2007; Mohler-Kuo et al., 2004). A 2004 national survey published by Harvard School of Public Health found that 72% of sexual assault victims experienced rape while intoxicated. Another study (Lawyer et al., 2010) found that 96.1% of the women victims surveyed consumed alcohol prior to the assault and most frequently the consumption was voluntary. The researchers found sexual assault where the victim was incapacitated due to alcohol and/or drugs to be more prevalent than assaults involving physical force. In another crucial national study, the U.S. Department of Justice surveyed 5,466 women and 1,375 men in college. The study found a higher rate of female victimizations as a result of incapacitation due to voluntary consumption of alcohol and/drugs (7.8%) than as a result of physical force (4.7%). Assaults from incapacitation due to non-voluntary consumption of alcohol and/or drugs was found to be the experience of 0.6% of the female participants (Krebs et al., 2007). This study supports other research (Finley & Corty, 1993; Testa & Livingston, 2009), which found that alcohol was more commonly involved than was physical force in sexual assaults involving college female victims. Other researchers have found that more than half of all college women sexual assaults cases involve some form of substance abuse whether

voluntary or non-voluntary by the victims and/or perpetrator (Abbey, 2002; Fisher et al., 2000; Testa & Parks, 1996).

### **Rape Myths**

Rape myths support the rape culture found on many campuses by providing mechanisms through which perpetrators can be excused for rape, women can be blamed for rape, and acquaintance rape can be called something other than rape (Gavey, 2005).

Popular rape myths such as “no” really means “yes”; woman are flirtatious and do not mean what they say; a woman’s manner of dress or her actions indicates that “she asked for it;” reported cases of rape are simply cases of regretted sex; and women report rape to protect their reputations or to get even at someone; serve to perpetuate a rape culture on most college campuses (Burnett, Mattern, Herakova, Kahl, Tobola, & Bornsen, 2009). The 2011 incident involving the Delta Kappa Epsilon fraternity chapter at Yale University is an example of such culture. The University suspended the chapter when a video was posted of members marching across campus chanting "No means yes! Yes means anal!" The 2016 publication of an audio and video recording of United States President, Donald Trump and Entertainer, Billy Bush discussing the sexual assaults of women is an expression of attitudes that almost normalize such behaviors. Trump’s assertion that his description of how he grabs women in their private parts was simply locker room talk further normalizes the rape culture. Other rape myths such as “men cannot control their sexual urges and that women must not be in certain dangerous situations” serve to excuse the behavior of man and silence women’s voices (Kelly & Stermac, 2008 p. 32).

Rape myths are social and cultural phenomena that influence people's attitudes about rape victims and perpetrators. Studies have found that rape myths are further supported by athletics and fraternities (Burnett et al., 2009; Croset, Jeffrey, & McDonald, 1995). The nature of men's athletics with its emphasis on physical dominance helps foster a rape culture where women are viewed as objects. In a survey of 2,338 incoming undergraduate students, McMahon (2010) found that male students, athletes and those pledging a fraternity/sorority possessed a higher acceptance of rape myths. This has serious implications for how rape prevention education is presented to students.

David Lisak (2011) argued that the methodology of "date rape" and "acquaintance rape" has given birth to a connotation of "rape lite." Victims of these types of rapes are viewed as less harmed than those who were victimized by strangers and their perpetrators as less violent than other offenders. However, Lisak has found that the acquaintance rapists share the "motivational matrix of hostility, anger, hyper-masculinity, impulsiveness, and antisocial attitudes" as incarcerated rapists (p. 9). These similarities between the incarcerated and non-incarcerated rapist, which college student perpetrators fall into, have serious implications for how institutions respond to cases of sexual misconduct.

### **Reporting Issues**

Despite the prevalence of rape, it is still the most underreported crime in America (Karjane et al., 2002; Karjane, Fisher, & Cullen, 2005). One of the reason for this is that it is difficult for victims to view a close friend or family member as an abuser (Jones et al., 2009). According to Karjane et al. (2002), "when acquaintance rape victims name their experience 'rape,' they are often naming a classmate or friend a 'criminal' or a

‘rapist.’ Such labeling requires a radical redefinition of their previous relationship in a way that politicizes that relationship” (p. x). This is particularly true when there is no weapon or physical injury and alcohol is involved (Bachman, 1993).

There are several other factors that adversely impact sexual assault reporting. In a survey of 250 college male and female students, Sable et al. (2006) found that the barriers reported by women were: (1) “shame, guilt, and embarrassment and not wanting friends and family to know; (2) fear of retaliation; (3) concerns about confidentiality; and (4) fear of not being believed” (p. 159). These findings are corroborated by other research. For example, in a study of 492 female college students, Thompson, Sitterle, Clay, and Kingree (2007) found that victims were less likely to report sexual assault to the police than physical assaults. The main reasons were shame, embarrassment, and fear that they would be blamed.

A congressional report entitled, “Campus Sexual Assault: How American Higher Education Institutions Respond” (Karjane et al., 2002), sampled 2,428 diverse institutions, including two and four-year institutions receiving Title IX funding. The research found that institutional policies or lack thereof can adversely impact reporting. For example, not providing a means for anonymous reporting or a statement of confidentiality may deter students from initiating or participating in the process. The study also found that alcohol and drug policies that do not include a medical amnesty clause may inhibit reporting. Victims who voluntarily consumed alcohol or drugs prior to an assault may not report a sexual assault for fear that they will face disciplinary actions for violating the school’s substance abuse policy. These barriers to reporting have serious implications for higher education institutions in terms of how they deal and respond to

sexual assault on their campuses. In addition, such barriers to reporting do little to dispel the myths that are part of the rape culture that exists on many college and university campuses across the nation.

### **The Impact of Sexual Assault**

Whether or not rape is reported, it has tremendous implications for the victim, higher education institutions, and society as a whole. The monetary and psychological cost of sexual assault is tremendous. Social science research puts the annual cost of sexual victimization at \$127 billion. The cited cost is more than twice that of the annual cost calculated for other violent crimes such as child abuse and murder (Miller et al., 1996, as cited in Krebs et al., 2007). The physical, emotional and psychological impact of rape on a victim/survivor is also tremendous. According to the Department of Psychiatry and Behavioral Sciences, “Rape victims are 13 times more likely to attempt suicide than non-crime victims and six times more likely than victims of other crimes” (National Victim Center & Crime Victims Research and Treatment Center, 1992, p. 7). This finding is supported by other research that find that victims suffer from a vast number of mental health problems ranging from depression to post-traumatic stress disorder (Edwards et al., 2009; Guerette & Caron, 2007). The American Medical Association categorizes the physical and psychological conditions as chronic (American Medical Association, 1995, as cited in Guerette & Carron, 2007). In a survey of 644 college women between the ages of 18 and 24, Gutierrez et al. (2000) found that sexual abuse plays a role in how women think about life. Those with significant histories of sexual abuse experienced less repulsion towards the idea of death and more repulsion towards the idea of life. In addition, the researchers found that women rape victims were more

likely to be engaged in therapy for longer period of time than non-victims. All these findings have serious implications for institutions and their health and wellness centers that often time lack the resources to meet the mental health challenges of students.

The effects of rape go beyond the victim alone. Rape impacts a victim's spouse, partner, family and friends. In addition, a campus sexual assault can potentially impact—even disrupt—the college learning environment. Victims often withdraw from school, leaving the institution at a loss of revenue. The rumor of rape and federally mandated reports of published violent crimes can create fear on campus and in the community. This can be devastating as the fear of rape has been found to rate higher than other fears among young women (Dobbs, Waid, & Shelley, 2009). In addition, rape cases have brought legal challenges to which colleges and universities have had to respond to.

### **Civil Litigation Involving College Student Sexual Assault**

#### **Legal Challenges**

Institutional liability for student's safety can be traced to a 1976 landmark case. In *Tarasoff v. Board of Regent of California*, the college was held responsible for failing to protect a student from the conduct of another student. In 1969, Prosenjit Poddar informed his college therapist of his intentions to kill fellow student, Tatiana Tarasoff and the university failed to stop him. While the case is not one involving sexual assault, it imposed legal liability and duty upon institutions that has since been used in other student injury cases, such as sexual assault. *Tarasoff* essentially states that institutions have a duty to protect students from foreseeable dangers.

The 1986 assault against college student, Jeanne Clery changed how institutions responded to violent crimes. Jeanne Clery, a Lehigh University freshman was raped and



murdered in her residence hall by a male student. Clery's parents found out that there were 38 violent crimes at Lehigh prior to their daughter's enrolment that were not made known to students and community members. This case led Congress to require higher education institutions to publish annual Clery reports of violent crimes on campus.

The Courts have held that institutions owe a duty of care to their students to protect them from violent perpetrators. For example, the 1993 Nero case is considered a landmark student-on-student sexual assault case. That year, Kansas State University assigned a male student to a residence hall. A month later, the student was accused of raping another student and was moved to a male-only residence hall and banned from certain places. Despite the fact that the alleged perpetrator was awaiting criminal trial, he was moved to a female hall during the summer because no male-only halls were available. The student raped Shana Nero, who was also assigned to the same residence hall. An Appellate Court ruled that the Kansas State University failed to provide reasonable care to Nero by failing to protect her from the student perpetrator. In *Johnson v. State* (1995), the court ruled that public institutions, similar to private institutions, owe a duty of care to protect students on their campuses. In that case, the court rejected the Washington State University's claim that it was entitled to government immunity as a public institution when a first-year student was abducted and raped near her dormitory on the college campus.

### Legislative Response

#### **Congressional Act**

Colleges and universities are not only dealing with civil lawsuits for failure to properly respond to sexual assault cases on their campuses but with an increasing number

of federal legislation that dictate how they respond to such cases. For example, the U.S. Congress passed the Student Right-to-Know and Campus Security Act of 1990, which mandated colleges and universities participating in federal student aid programs to “prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report” (Fisher et al., 2000, p. 1) designated crime statistics of the institution.

The 1992 amendment of the Campus Sexual Assault Victims’ Bill of Rights, requires colleges and universities to include in their annual published report information about awareness and prevention programs and to afford certain rights to sexual assault victims. The act has been amended several additional times to impose further reporting obligations on institutions. It was later renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act after the college woman who was sexually assaulted and murdered at her institution.

## **Title IX**

Title IX is another federal law that the government has used to dictate how institutions respond to sexual assault on their campuses. According to Title IX, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” When first signed in 1972, one of the aims of Title IX was to ensure that women had the right to join sports teams and clubs that were long reserved for male students. However, its broad scope of forbidding gender discrimination in schools has led to interpretation that it is meant to prevent sexual

harassment and assault at federally funded institutions. Title IX was first linked to student sexual harassment and violence cases in the 2011 DCL and clarified in subsequent DCLs. Since then, the view and application of the law has been interpreted as providing students with protection from “sexual harassment in a federally funded school’s education programs and activities” whether or not those “programs or activities” take place in school facilities or a school sponsored program (DCL, 2015, p. vi). It also provides protection to students regardless of their perceived sex, gender identity, and/or gender expression.

The legal argument of tying Title IX to college sexual assault was first tested in *Alexander v. Yale* (1977) when a group of Yale students filed a lawsuit arguing that sexual harassment is a form of sex-based discrimination. In this case, Plaintiffs, Ronni Alexander, Margery Reifler, Pamela Price, Lisa Stone and Ann Olivarius alleged that Yale professors were propositioning female students for sex in exchange of better grades. Instead of seeking damages from Yale, the students sought to have Yale set up grievance procedures for dealing with sexual harassment claims. Although the students lost their case, the District Court noted, “it is perfectly reasonable to maintain that academic advancement conditioned upon submission to sexual demands constitutes sex discrimination in education.” The American Civil Liberties Union declared *Alexander*, a “pivotal moment in Title IX history.” As a result of the case, Yale established grievance boards for dealing with sexual harassment cases and soon hundreds of colleges and universities followed (Kingkade, 2014, p. 2).

Another pivotal case which has shaped how institutions respond to allegations of sexual assault is *Davis v. Monroe County Board* (1999). In a 5-to 4 decision, the U.S.

Supreme Court ruled that institutions receiving federal funds can be held liable for student-to-student sexual harassment under Title IX if a plaintiff can demonstrate that: (1) “the alleged harassment was so severe, pervasive, and objectively offensive” that it deprived the plaintiff of “access to the educational opportunities or benefits provided by the school”; (2) the institution had “actual knowledge” of the sexual harassment; and (3) the institution was “deliberately indifferent” to the harassment (*Davis v. Monroe County Board*, 1999). In *Jennings v. University of North Carolina* (2006), the courts established that one incident of sexual assault or rape could be sufficient enough to create a hostile environment.

According to the OCR:

When a school knows or reasonably should know of possible sex-based harassment, it must take immediate and appropriate steps to investigate or otherwise determine what occurred. If an investigation reveals that the harassment created a hostile environment, the school must take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects. (2017, p. 1)

Institutions that fail to accomplish the three goals stated above can be found to be “deliberately indifferent” as stated in the *Davis v. Monroe* (1999). Schools have found several methods of meeting the three goals through investigations and educational programs provided to their campus community.

### **The 2001 Sexual Harassment Guidance**

The 2001 Sexual Harassment Guidance published by the OCR is another federal attempt to legislate how institutions respond to sexual assault cases on their campuses. This guidance is an attempt to revise earlier guidelines pertaining to how institutions deal with sexual harassment on college campuses. The Guide, which applies to institutions

that receive Title IV federal funds, outlines what institutions should include in their policies and procedures that deal with sexual assault. It requires schools to have “(1) a process for disseminating sexual harassment policy; (2) procedures for providing prompt and equitable resolution of complaints; (3) a process by which immediate and appropriate steps can be taken to investigate or otherwise determine what occurred and take prompt and effective steps reasonably calculated to end any harassment; (4) policies and processes that are designed to provide reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation, including appropriate disciplinary actions against the perpetrator; (5) services to the student victim to help address the effects of the violence on her; (6) steps to prevent any retaliation against the student who made the complaint; and (7) a discussion of confidentiality standards and concerns with the student victim and an explanation of how a confidentiality request may limit the school's ability to respond” (pp. 5-10).

### **The Dear Colleague Letters**

While federal mandates such as the Clery Act and the 2001 Sexual Harassment Guidance created more transparency on how institutions deal with sexual violence, the 2011 DCL forced the issue as a priority for higher education institutions (Binkley & Wagner, 2014; Dockterman, 2014). In this groundbreaking letter, the OCR demanded in no uncertain terms that colleges and universities do a better job responding to cases of sexual assault or risk violating Title IX, a federal law that prohibits sex-based discrimination at higher education institutions that receive federal aid. In introducing the new sexual assault guidelines in a press conference at the University of New Hampshire on April 4, 2011, Vice President Joe Biden, exclaimed, "Rape is rape is rape. The sooner

universities make that clear, the sooner we'll begin to make progress” (Travers & Bradley, 2011, para. 3).

The 2011 DCL pertaining to student on student sexual harassment and sexual violence provided sub-regulatory guidance to schools in terms of how they should respond to reported cases of sexual violence. Specifically, it requires schools to:

publish a notice of nondiscrimination; (2) designate an employee to coordinate Title IX compliance; (3) adopt and publish grievance procedures; (4) provide education and training programs on the subject of sexual harassment and violence to all students and employees; and (5) to use a preponderance of evidence standard when determining whether or not a student had violated the institution’s sexual harassment policy, (6) provide a prompt and equitable process to involved parties, and (7) conduct an impartial investigation. (p. 6-10)

The 2015 DCL to Title IX Coordinators clarifies sections of the previous DCL and the roles and responsibilities of Title IX coordinators. According to the 2015 DCL, the responsibilities of the Title IX coordinator(s) is to coordinate the institution’s compliance with Title IX cases, including institutional grievance procedures for resolving Title IX complaints. The 2015 resource guide published along with the 2015 DCL reminds institutions of the requirement

to publish a nondiscrimination statement that they do not discriminate on the basis of sex in the education programs or activities they operate and that they are required by Title IX not to discriminate in such a manner. The notice must also state that questions regarding Title IX may be referred to the institution’s Title IX coordinator or to the OCR. (p. 6)

It also recommends that the names and titles of all Title IX coordinators are published in various print and online catalogue and marketing materials.

In September 2017, the OCR published another DCL, rescinding the 2011 and 2015 regarding how institutions respond to sexual assault under Title IX. The Department released a Question and Answers document outlining how schools are

required to respond to new cases. The 2017 DCL and the changing landscape of Title IX are discussed further in Chapter six.

### **Campus SaVE Act**

Another federal legislation that imposes requirements on higher education institutions in terms of how they deal with sexual assault cases is the Campus Sexual Violence Elimination (SaVE) Act. The Campus SaVE Act was signed into law by President Barak Obama on March 7, 2013 as part of the VAWA reauthorization and became effective July 2015. The Act amends the Clery Act by requiring institutions to report five specific sexual violence behaviors, including rape, sexual assault, stalking, dating violence and domestic violence. In addition, the Campus SaVE Act requires:

1. Increased Transparency: Institutions are required to report a broader range of sexual violence incidents occurring on campus. Schools must now report data on sexual assault, dating violence, domestic violence, and stalking;

2. Enhanced rights for the victim: The victim must be notified in writing of her rights, which include being provided with information obtaining orders of protection, no contact orders; information on how the institution will protect the confidentiality of the victim; notification of available services for mental health, victim advocacy, legal assistance and other community resources; notification of her right to change academic, living, transportation, or work situations, even if she does not formally report; explanation of her rights or options regardless of whether the crime took place on campus or off campus;

3. New standards of disciplinary hearings: Officials conducting disciplinary proceedings must be trained annually on sexual violence investigation and determinations; both the accused and accuser must have an adviser of their choice present during the disciplinary process; both parties are required to receive the final results of a disciplinary proceeding in writing, and have the right to appeal disciplinary decisions or changes to the final result;

4. Campus wide education: The educational programs must include a statement that the school prohibits acts of sexual violence; definition of various acts of sexual violence; education on bystander intervention; risk reduction programs; and information on the school's reporting system and disciplinary proceedings. (Ace Council on Education, pp. 1-3)

The Campus SaVE Act, along with federal legislation and civil cases, has forced colleges and universities to more carefully regulate their students' behaviors. Thus, higher education institutions have had to develop "complex procedures and detailed rules that students are expected to know and observe" (Fitch & Murry, 2001, p. 191). The complexities of those rules have created confusion and a need for specialized training for staff and students.

### **History of Regulating Student Behavior**

The disciplining of students in higher education institutions can be traced back to Thomas Jefferson at the University of Virginia in 1825 (Stoner & Lowery, 2004). In a letter to Thomas Cooper, Jefferson (Patterson, 1984, as cited in Stoner & Lowery, 2004) lamented the difficulty of student discipline:

The article of discipline is the most difficult in American education. Premature ideas of independence, too little repressed by parents, beget a spirit of insubordination, which is the greatest obstacle to science with us, and a principle cause of its decay since the revolution. I look to it with dismay in our institution, as a breaker ahead, which I am far from being confident we shall be able to weather. (p. 1465)

Since the era of Thomas Jefferson, colleges and universities have struggled to find ways to respond to student discipline. Prior to 1960 the doctrine that governed how higher education institutions responded to student conduct was *in loco parentis*, a legal doctrine that essentially allowed colleges and universities to serve "in place of parents" to restrain and correct as necessary the conduct of students (Bickel & Lake, 1999). The *In loco parentis* doctrine immunized institutions from lawsuits and legal scrutiny. According to Altschuler & Kramnick (1999), the doctrine gave universities power to regulate students' behaviors from "libido to laundry" (para. 4). For example, Princeton



University required students to use a chaperone for doing laundry off-campus. Some schools required that doors remain open when a member of the opposite sex was visiting and for at least three feet to remain on the floor (Altschuler & Kramnick, 1999).

The legal application of *in loco parentis* to case laws did not begin until the 1866 case of *Pratt v. Wheaton College*. In that case, students challenged the college rules that forbade them from joining secret societies. The Court sided with Wheaton, citing that the college had the parental (thus legal) authority to regulate conduct that it deemed proper. The reference to *in loco parentis* in case law became more grounded with *Gott v. Berea College* (1913) and *Stetson University v. Hunt* (1924). Citing the Wheaton case, Berea College argued that it had the legal authority to forbid students from attending certain off-campus locations. As cited in Bickel & Lake (1999), the Court agreed and ruled:

colleges stand in loco parentis concerning the physical and moral welfare and mental training of the pupils, and . . . to that end [may make] any rule or regulation for the government or betterment of their pupils that a parent could for the same purpose. (p. 22)

The *Hunt* Court built upon the legal decision of *Gott* and provided greater power to higher education institutions to discipline students and regulate their conduct as they deemed best. In *Gott*, a student was suspended for disruptive conduct in the residence halls. The Court ruled that because colleges and universities act in place of parents, the courts should not involve themselves in how these institutions regulate student behavior unless the rules are unreasonable. This view slowly began to change during the civil rights era when students began demanding certain rights.

The civil rights movement of the 1960s emboldened students to demand rights on their college campuses and to challenge rules that they viewed as unreasonable and unfair. In *Dixon v. Alabama State Board of Education* (1961), a group of black students

was expelled for conduct the University deemed to be unbecoming of a student. No notice of the charges or due process was given during the conduct process. The students sued and won. The Court ruled that in regulating student behavior, the university is obligated to provide its students with certain rights in the disciplinary process. *Dixon* challenged public colleges and universities to offer students procedural due process before taking disciplinary action. While the *Dixon* decision was against a public university, private colleges took note and began providing rights to their students out of a sense of fairness. According to Stoner & Lowery (2004):

As the courts moved away from the doctrine of in loco parentis, they began to view the relationship between students and institutions as contractual. Under this view, institutions enter into contracts with their students to provide them with educational services in exchange for students' paying certain fees and obeying certain rules. Institutions were given latitude to regulate student behaviors so long as institutions follow their own written processes" (p. 8)

The in loco parentis doctrine provided institutions with the freedom to regulate their students' behaviors. Policies and procedures were considered contractual agreements between the institution and its students.

### Due Process

On-campus disciplinary proceedings are not the same as criminal court proceedings. The student disciplinary process is in place to serve two main functions: 1) to educate students of the institution's expectations by holding them responsible for their actions and 2) to protect the campus community (Pearson, 2001 as cited in Fishner, 2006). For this reason, institutional due process differs from the legal process afforded to a citizen by the United States Constitution. In higher education institutions due processes outline the rights of a student as they go through the student conduct process. It ensures a

fair opportunity for the accused student to have his or her side of the case heard. In sexual assault cases, the alleged victim is provided with certain due process rights that are required under the Campus SaVE Act.

As mentioned earlier, the landmark case of *Dixon v. Alabama* (1961) set what is often regarded as the first imposition of due process rights for college students. However, *Goss v. Lopez* (1975) provided additional guidance than *Dixon v. Alabama* (1961) regarding the amount of due process that is required. In the *Goss* case, nine students were given 10-day suspensions from their secondary schools. Following Ohio law, which allowed for the suspension or expulsion of students up to ten days without a hearing, the principals acted without holding hearings and providing the students with an opportunity to defend themselves. The case made its way to the United States Supreme Court, which ruled that the students' due process rights were violated.

According to the *Goss* Court, the higher the consequence for the alleged misconduct, the greater amount of due process is required. Thus, if there is a possibility that a student is going to be suspended for a number of days, a greater and more formalized level of due process is required because the student is facing sanctions that can have a detrimental loss on his education. A high school case, *Goss v. Lopez* (1975) has widely been adopted by colleges and universities, as a standard of minimal due process that must be afforded to students. In their Model Code, Stoner and Lowery (2004) advises colleges and universities to afford their students greater due process rights when they are facing severe sanctions like suspension and expulsion.

While the courts have demanded that schools provide due process to accused students, Karjane et al. (2002) found that the level of due process that is given to accused

students often negatively affect the victims of sexual assault. For example, allowing face to face hearings and direct cross examinations may further traumatize the victim and affect their willingness to continue to participate in the process. In response to this concern, the DCL published by the OCR in 2011 requires that institutions also provide victims of sexual assault a set of due process rights, which includes among other things, the right to know the outcome of the hearing and any applicable sanctions as well as the right to appeal the decision of the hearing. The Campus SaVE Act, which took effect in 2015, provides additional due process measures for the alleged victim such as due process rights, transparency in terms of where and how reports can be submitted, and access to reasonable accommodations such as transportation and housing.

### The Professionalization of Judicial Affairs

The 1961 Dixon case forced colleges and universities to develop processes that afford students certain due process rights. Dixon created an opportunity for students to bring forth suits under the Fourteenth Amendment for deprivation of due process rights. In response to the changing legal landscape, institutions began developing codes of student conduct to respond to behavior and protect themselves from legal liabilities.

Multiple organizations formed to respond to this emergent field in student affairs. The professionalization of judicial affairs can first be traced to the American College Personnel Association's establishment of Commission XV: Campus Judicial Affairs and Legal Issues in the early 1970s. The purpose of the commission was to meet the needs of the emerging profession of student conduct. It published a student conduct manual to guide the development and practice of student conduct policies. In 1988, a group of professionals formed the Association for Student Judicial Affairs (ASJA) to better

respond to the growing profession. In 2008, the association changed its name from the Association for Judicial Affairs to the Association of Student Conduct Administrators (ASCA) removing the word judicial along with its legal ramification and promote a more educational approach to student discipline. The mission of ASCA as listed on its website is “to facilitate the integration of student development concepts with principles of student conduct practice in post-secondary education.” The organization also seeks to “support student development professionals responsible for judicial affairs”. Currently, ASCA represents 700 higher education institutions in the United States and Canada and boasts a membership of 1700.

The ASCA encourages colleges and universities to develop processes and policies that are educational in nature. It recommends stripping away languages that are considered legalese to avoid any resemblance between the institutional conduct process and the criminal process. According to ASCA, the goal of a student disciplinary process is to allow students to learn from their mistakes by holding them accountable for their behaviors. In balancing the educational need of the accused with the safety of the learning environment, accountability can lead to the accused student being dismissed from the institution.

The attempt to regulate student behaviors has met legal challenges not only from victims of sexual assault but also from alleged student perpetrators. For example, in a recent lawsuit in 2011, a jury ruled against Sewanee: The University of the South, holding the private institution liable for negligence in a disciplinary hearing that resulted from a rape accusation in 2008. In that case, a former student, identified as “John Doe” was found responsible for rape by a faculty-run disciplinary panel. The student, who

never faced criminal charges, argued that the disciplinary process was bias towards him. The Court agreed and ordered the university to pay the student \$26,500 in damages (Eaton, 2011). Sexual assault cases have essentially created a legal conundrum for institutions, where colleges and universities “can open themselves up to legal challenges if—amid rising pressures to resolve sexual assault cases—they fail to seek balance in disciplinary procedures for handling those cases” (para. 1). Thus, institutions must seek to consistently provide a fair and impartial process to the involved parties.

### **Summary**

A college education has long been regarded as a passport to a financially secured future. Sexual violence interferes with a student’s ability to obtain a college education and secure a stable future. One in five college women experience sexual assault while in college (Fisher et al., 2000). Sexual assault affects students psychologically, physically and academically and can disrupt the college community and damage an institution’s reputation (Edwards et al., 2009; Guerette & Caron, 2007; Gutierrez et al., 2000).

Higher education institutions have struggled with how to respond to student behavior in a manner that promotes safety and the educational development of students (Stoner & Lowery, 2004). The conundrum for colleges and universities is to find a balance between keeping their campuses safe and providing policies and procedures that promote the development of their students. No other behavior is this approach more difficult and crucial than the policies and processes for dealing with student on student sexual assaults. Increased pressure from the federal government combined with a genuine concern for student safety and mounting threats of litigation are forcing higher education

institutions to explore the nature of student sexual assaults and internally examine their responses to such cases.

## CHAPTER 3

### PROCEDURES AND METHODOLOGY

#### **Introduction**

This chapter outlines the guiding research questions and describes the qualitative approach used in the study. It also identifies the research sample and the methods of data collection as well as the procedures that were used to analyze the data. The purpose of the research was to conduct a multi-case study of two residential Midwestern higher education institutions to: 1) understand the compliance level of the institutions' sexual assault policies and procedures to federal mandates, 2) discover how each institution's compliance level compare with one another, 3) identify the challenges that campus officials from the institutions face in the implementation and administration of required federal mandates, and 4) explore how the campus officials are meeting their identified challenges.

The four Guiding Research Questions were:

1. How compliant are the institutions' student on student sexual assault policies and procedures with federal guidelines?
2. How do the sexual assault policies and procedures of the two Midwestern residential higher education institutions compare with one another in terms of their compliance to federal mandates?



3. What challenges face college and university officials in their implementation and administration of federal mandates pertaining to the policies and procedures studied?
4. How are the institutions meeting their identified challenges?

### **Research Design**

The selection of a research approach depends on the research problem, purpose (Bloomberg & Volpe, 2008) and the researchers' epistemological and ontological assumptions about the world (Ayiro, 2012). This study utilized qualitative research, which uses an inductive mode of inquiry and focuses on the context and meaning of human lives and experiences. A major goal of qualitative research is to provide an in-depth understanding of a particular research problem. Given the research purpose and research questions, the case study method was found to be the most appropriate.

### **Case Study**

According to Robert Yin (2004), the case study method is helpful in illuminating a particular situation and allowing the researcher to obtain more in-depth knowledge. It allows for direct observations and collection of data in natural settings (Bromley, 1986). A case study research involves "an issue explored through one or more cases within a bounded system" (Creswell, 2007, p. 73). The case study can be a single- or multiple-case study, with each research sites serving as a distinct individual case. Multiple case studies contain cross-case analysis and results. The cases may be selected to either predict similar results or produce contrasting results (Yin, 2011; 2014).

An exploratory multi- case study is the most appropriate method for this research study because it allows for an in-depth look at the research problem, which includes the

experiences of campus officials charged with overseeing Title IX regulations. This study is bounded by two higher education institutions in the Midwest. The choice of a multi-case study approach is appropriate for the subject matter because: 1) it addresses the common criticism of single-case studies—that the uniqueness and idiosyncrasies of a single case have limited value beyond its circumstances, and 2) it allows for richer data for a more robust comparative analysis.

### **Conceptual Framework**

Gill and Saunders' (1993) Model of Policy Analysis in Higher Education served as a conceptual framework for the policy analysis and interview data contained in this study. Gill and Saunders refer to policy analysis as “the most effective means available for clarifying policy issues . . . and [is] helpful in interpreting, analyzing and developing implementation strategies” (p. 6). The authors argue that the process of policy analysis is not rational or linear; it does not proceed in an orderly fashion from one stage of analysis to the next. It is rather “a messy and elusive creative process that is strongly drawn on intuition of the analyst” (p. 7). Therefore, policy analysis can be defined as a process where the analyst is “working back and forth the tasks of identifying problems, defining objectives, enumerating possible alternatives, predicting outcomes, establishing criteria, and valuing tradeoff, to reaffirm analysis” (Stockey & Zeckhauser, 1978, p. 6, as cited in Gill & Saunders, 1993).

Policy analysis in higher education requires an understanding of the issues as well as the environment and the relationship between the political forces and structures of the environment. Gill and Saunders' (1993) Model of Policy Analysis in Higher Education outlines two major stages of analysis. Each stage consists of several components. Since

the process of policy analysis is not linear, steps to policy analysis may not always follow each other. The authors outlined two distinct stages to policy analysis.

The first stage of Gill and Saunders' (1993) Model of Policy Analysis in Higher Education is referred to as *Diagnosing the Problem*. In this stage, "a preliminary sketch of the issues and factors to be included in the analysis" (p. 19) are examined along with the objectives or purpose of the analysis. The basic list of the environmental factors, including key individuals who are currently identified with the issue or who may become involve in the analysis is generated. The nature of the problem of student on student sexual assault cases—which necessitated the development and implementation of policies—is evident from the review of the literature and federal mandates as discussed in Chapter 2. Under threats of loss of federal funding and potential civil litigations, colleges and universities have had to ensure that their policies and procedures on sexual assaults are in compliance with federal mandates. Increased pressures from the American public and media coverage have also forced institutions to implement best practice policies to protect and promote the health and safety of their campus community. Thus, the major objective of the policy analysis in this study was to determine the extent to which the student on student sexual assault policies and procedures of the selected Midwestern residential colleges and universities were in compliance with federal guidelines. Key administrators whose job functions were to investigate or adjudicate issues of student on student sexual assault were interviewed to gain an understanding of the challenges they face in the implementation and administration of sexual assault policies and how they were meeting their identified challenges.

The second stage of Gill and Saunders' (1993) Model of Policy Analysis in Higher Education is referred to as *Unraveling the Policy Analysis Knot*. According to the authors, "the four basic components of this stage are policy issue, the environment, the factors affecting policy implementation, and the proposed alternatives or recommendations" (Gill & Saunders, 1993, p. 22). The amount of attention paid to each component correlates with the emphasis given in the initial statement of analysis developed in stage one. Both time and resources limit the number of factors that are included in a policy analysis. For this reason, Gill and Saunders advise the analyst to choose factors that are most impactful to the study. The three factors that are most crucial to this present study are the policy issue, environment, and the factors affecting policy implementation and administration.

The way which higher education institutions choose to respond to student on student sexual assault is based on both the political environment created by federal mandates and pressures from the American public and media (Hanna et al., 2014; Kuta, 2014; Task Force, 2014). Although cases of sexual assaults have always been prevalent on college campuses, the degree to which such cases are discussed in the media or openly on college campuses is new. Since 2012, complaints of sexual assault involving students to the DOE (Chronicle of Higher Education, 2018) have increased more than fivefold. Yet, despite the pressures and good will, there is often a discrepancy between policy writers at the macro level of the government and the implementation that occurs at the micro level of individual institutions. A policy analysis of each institution's sexual assault policies shed light on how the particular institution implemented the federal guidelines on their respective campus. In addition, the interview data from key

administrators helped understand barriers or factors that have affected the implementation of sexual assault policies and procedures at the two participating institutions.

As referenced earlier, Gill and Saunders' 1992 Model of Policy Analysis in Higher Education served as a conceptual framework for the policy analysis contained in this study. The two stages listed above were used to understand and conceptualize the content analysis and interviews conducted at the two institutions studied.

### Content Analysis

Content analysis, also known as document analysis, was used to answer Research Questions 1 and 2. This method allowed the researcher to quantify, compare, and describe the sexual assault policies studied. According to Krippendorff (2004), document analysis "is a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use" (p. 18). According to Yanow (2007), document analysis provides a relevant source of information in case study method that seeks to understand the "how." Yanow posits:

Documents can provide background information prior to designing the research project, for example prior to conducting interviews. They may corroborate observational and interview data, or they may refute them, in which case the researcher is 'armed' with evidence that can be used to clarify, or perhaps, to challenge what is being told, a role that the observational data may also play. (p. 411)

Lindsay Prior (2003) asserts that a university's documents form its identity and separates it from other similar or different organizations.

A university (any university) is in its documents rather than its buildings. The charter together with other documents names the university, provides warrant to award degrees, and legitimizes the officers of the university and so on. Naturally, a university has buildings and equipment and lectures and students, but none of those things are sufficient for the award of university status. Only the charter can

define the organization as a university, and in that sense provide the one necessary condition for its existence. (p. 60)

If Yanow's (2007) and Prior's (2003) assertions are true, then the written documents produced by a university is an important marker of its identity and business practices. Documents communicate institutions' policies and modes of operations. Thus, policy analysis is one way of obtaining in-depth knowledge about an institution's mode of operations, its culture and priorities (Owen, 2014).

### **Interviews**

Semi-structured interviews were used to answer Research Questions 3 and 4. This method allowed the researcher to gain in-depth knowledge of the challenges of the campus officials. According to Gill and Saunders (1992), in understanding a higher education institution's environment, the voices of those who are affected by the policy should be understood. The authors state, "in assessing the policy environment, the policy analyst assumes the role of institutional politician and gives attention to significant groups within the college or university" (p. 24). Face to face interviews allow the investigator to "gain more detailed insights" in understanding the experiences of key groups (Yin, 2011, p. 132).

### **Sampling Method**

Two types of sampling were used for the study. Convenience sampling was used to select the two participating institutions and purposeful sampling was used to select the interviewees and the policies for the document analysis.

## Convenience Sample

The two institutions studied in this research represent convenience sampling.

Convenience sampling was appropriate for the research because of the sensitivity of the subject matter. I reached out to institutions that were in close proximity to me where I knew at least one senior student affairs official. The two institutions that were studied are located in the Midwestern region of the United States and provide on-campus housing for their students. The Midwest region was selected because of its proximity to me.

Institutions that provide on-campus housing were selected because research shows that many sexual assaults take place in college residence halls (Krebs et al., 2007). The two particular institutions were selected because I had a professional relationship with at least one senior student affairs professional from each institution. Given, the sensitivity of the subject matter, having a connection with officials at the institutions increased the likelihood of participation.

Once the two institutions were identified, I reached out to their Institutional Review Board (IRB) or the person/office responsible for research oversight. Since Institution A did not have an IRB, I emailed the Director of Institutional Research the research protocol and requested participation (see Appendix A). After a few weeks of non-response, a second email was sent to the same official requesting participation. After another few weeks of non-response, I reached out directly to the college's provost, with whom I had a past professional relationship. The provost confirmed that the person in the Director of Institutional Research position was no longer at the college. The provost offered to assist with the research and shared its goals with the leadership team, including

the college's President. Within a week, she emailed me an approval to utilize the institution as a research site.

The second step of the research was to identify the research protocol for Institution B. Since the information on the college website was not clear on the steps needed to obtain IRB approval, I emailed the person listed as Chair of the IRB to request clarification (see Appendix A). This person who no longer was serving as the Chair forwarded my request to the current Chair. Once I received the instructions, the application for IRB Proposal Form, along with all supporting documents and consent form was submitted to the college's IRB.

At the initial start of the research study, three residential institutions were selected—a four-year public, a four-year private and two-year community college. After spending over a year working with the four-year public institution, the university decided to not participate in the research study due to the sensitivity of the subject matter. Thus, the research plan was designed to compare and contrast the findings of the two participating institutions to each other and to the Compliance Rubric (see Appendix E).

### **Institution A**

Institution A is a multi-campus community college that offers primarily Associate degrees with a few selected bachelor's degrees. According to the Carnegie Mellon Classification, it is classified as a medium-sized and primarily nonresidential college with an enrollment size of approximately 8,000 students. Forty-one percent of the student population is considered full-time. The total student population is comprised of 58% females. Sixty-three percent of the student body is 24 years of age or younger. The central campus of Institution A, where its residence halls are found, is located in a small



town, 40 miles west of the state capital. The residential population ranges from 500 to 1000 students. Similar to other community colleges, Institution A has open enrollment, which aligns with its mission of providing accessible education to learners. At the time of the interview, the college's president had been at the institution for about 15 years. In its 2014 Clery Report, Institution A reported two Sex Offenses—Forcible on campus and two in the residence halls. Two Forcible Fondling were reported on campus and two reported in the residence halls in 2014. No sexual crimes were reported in 2013. No specific information about those reports were collected at the time of the interview.

### **Institution B**

Institution B is a private not-for-profit four-year institution that offers primarily undergraduate degrees and a few Master's level degrees. It is classified as a small, primarily residential institution by the Carnegie Mellon classification. The student body is comprised of 3,200 degree-seeking students, of which 88% are considered full time undergraduate students. Females make up 50% of its student population. *Institution B* is nestled in a small suburb, which is located 15 miles from one of the state's major cities. Over 32% of its students live on campus including undergraduate and graduate students. Institution B focuses on liberal learning with an emphasis on professional preparation. At the time of the interview, the college president was in his first year of tenure.

### **Purposeful Sample**

The second type of sampling that this research study utilized was purposeful or purposive sampling. This type of sampling strategy was used for the selection of the interview participants and for the data that needed to be collected. According to Robert

Yin (2011), the goal of this sampling type is to select samples that will provide the “most relevant and plentiful data, given the [researcher’s] topic of study” (p. 88). According to Creswell (2007), purposeful sampling allows the researcher to “select individuals and sites for study because they can purposefully inform an understanding the research problem and central phenomenon in the study” (p. 125). Bloomberg and Volpe (2008) posit that purposeful sampling involves the selection of “information-rich cases with the objective of yielding insight and understanding of the phenomenon under investigation” (p. 69). Thus, this study selected samples that could inform an understanding of the research questions.

The research study consisted of the six interviews and the analysis of eight separate documents. Four participants were interviewed from Institution A and two from Institution B. Six pieces of policies/documents were reviewed and analyzed from Institution A and four Institution B. Once the institutions confirmed their participation, I contacted the student affairs staff who could purposefully provide the information for the study.

For Institution A, the college provost provided me with the Vice President (VP) for Administration as my contact person. I reached out via email to the VP for Administration, explained the research study, solicited her participation in an interview (see Appendix A) and requested the college’s policies. She agreed to participate in the interview and connected me with the Human Resources (HR) Consultant/Title IX Investigator as my institutional contact. The HR Title IX Investigator coordinated all the interviews and provided me with the policies and documents to review. Four people were

interviewed at Institution A. Having worked at that institution, the researcher was familiar with all the officials interviewed.

For Institution B, the researcher completed a search on the college website to determine who the best point of contact was for the interviews. The dean of students (DOS) was identified. An email was sent to this staff member informing her of the IRB approval and requesting her participation (see Appendix B). She informed me that she would be leaving her position and provided the contact information of the Director of Residence Life, who was going to serve in the interim role of DOS and Title IX Coordinator. After sending several email communications to this person without a reply, I reached out directly to the VP for Finance and Administration/Chief Financial Officer (CFO), whom I had worked with at a separate institution (see Appendix B). The CFO at the time was serving as in the interim role of VP for Student Affairs. She connected me with the Coordinator of Conduct and Compliance/Deputy Title IX Coordinator as my institutional contact.

I reached out via email to the coordinator, explained the research study and requested her participation in an interview (see Appendices B & C). The Coordinator of Conduct and Compliance/Deputy Title IX Coordinator for Students agreed to participate in the interviews and to serve as my institutional contact. She supplied copies of policies and procedures and assisted in setting up the interviews between me and another staff member, whose job functions was related to the research study.

### **Data Collection Procedures**

Although several methods of data collection exist in qualitative research (Bloomberg & Volpe, 2008), this study utilized face to face semi-structured interviews

and document analysis. According to Eugene Bardach (2009), “in policy research, almost all likely sources of information, data, and ideas fall into two general types: documents and people” (p. 69). As a multi-case study research method, the use of interviews and document analysis were found to be best suited for the research questions.

Document analysis was utilized to answer the first two research questions regarding institutional compliance with federal mandates. Interviews were utilized to answer the last two questions that sought to understand the experiences of college officials.

Both institutions and their participants remained anonymous throughout the study in order to protect them from federal liability. According to Yin (1994), “There are some occasions when anonymity is necessary. The most common rationale is that, when the case study has been on a controversial topic, anonymity serves to protect the real case and its real participants” (p. 143). Thus, throughout the research study, the institutions are referred to as Institution A and Institution B. Each interviewer’s title is stated, and their roles fully described. To further protect the privacy of the institutions and interview participants, the data collected was coded with a pseudonym and stored in both paper and electronic files under the appropriate assigned name. The electronic folders were kept in my Dropbox electronic folder.

### Interviews

The purpose of interviews was to allow participants to tell their stories (Seidman, 2006). According to Robert Yin (2011), “all interviews involve an interaction between the interviewer and a participant (or interviewee)” (p. 133). The format of a semi-structured interview was chosen because it allows for prepared questions ahead of time

but also provide flexibility to allow the interview to stray from the topical trajectory of the conversation if appropriate. Its structure is fluid and can produce a more conversational interview where the interviewee can speak freely, and more in-depth information can be obtained (Creswell, 2007). Face to face interviews were chosen because they allowed for nonverbal cues to be observed. This led to a richer understanding of participants' responses.

The interviews were conducted according to Creswell's (2007) approach to interviewing and utilized an interview protocol. Participants were interviewed in a quiet location free from distractions; each interview was audiotaped with the consent of the interviewee by using a tape recorder; I took notes on the interview protocol in the event the audiotaping was to malfunction; and the content of the interviews were then professionally transcribed. The participants were open to sharing their experiences (and at times frustrations) in their role. Each interview lasted approximately one hour long and was conducted in the official's office or conference room.

### **Interview Participants**

As previously mentioned, the selection of interview participants represented a purposeful sampling. The interviews were conducted with participants whose job functions were related to Title IX compliance and/or the management of their institution's student discipline process. Each interviewee is referenced in the study with a pseudonym that begins with the pseudonym letter that represents their institution (A or B) and a number that corresponds to the order in which they were interviewed (see Table 1).

The first set of interviews were conducted with officials from Institution A. The first person interviewed was the VP of Student Services (Official A1) who had been at

Table 1

*Interviewees by Institution and Position*

Institution	Official #	Role	Gender	Years
A	A1	VP of Student Services	F	4.5
	A2	VP of Administration	F	36
	A3	HR Consultant and Title IX Investigator	F	38
	A4	Safety Security Manager	M	31
B	B1	Coordinator of Conduct & Compliance Title IX Deputy Coordinator	F	2
	B2	Director of International Education	F	2.5

*Note.* M=male; F=females; Years=years employed at the institution at the time of their interview.

the institution for about 4.5 years. This staff member reports to the college president and oversees admission, financial aid, registrar, student disabilities and academic advising. At the time of the interview, she was being trained to supervise the assistant DOS who oversees student conduct matters and the Campus Judicial Board.

The second and third people interviewed at Institution A were the VP of Administration (Official A2), who oversees HR and serves as the Title IX Coordinator and the HR Consultant/Title IX Investigation (Official A3). Official A2 had been at the college for 36 years. She reports directly to the college president and is responsible for HR, multicultural relations, public safety, event services, and marketing/communication. Official A3 had been at the college for 38 years. She retired several years ago but immediately returned part time to assist with HR functions and Title IX initiatives. She reports directly to Official A2. Both officials chose to be interviewed together.

The third interview conducted was with the Safety Security Manager (Official A4), who had been at the college for 31 years. He is responsible for responding to reports of sexual violence and connecting the complainant to law enforcement officials. He

oversees the part time security staff and is responsible for video surveillance, the Clery and the Occupational Safety and Health Administration (OSHA) reports. He is supervised by o the VP of Administration.

Two participants were interviewed at Institution B. Official B1 serves as the Coordinator of Conduct and Compliance/Deputy Title IX Coordinator for Students (Coordinator). She is responsible for the coordination of training, education, and administration of complaints and grievances. She also oversees the university's conduct process. Official B2 serves as the Director of International Education. She serves on the Title IX Conduct Board and works closely with the coordinator to provide Title IX-related education for the campus community.

Two college officials from Institution B were interviewed. Due to the fact that the college was in the middle of dealing with a large staff turnover, the two individuals interviewed were the only ones available. The Coordinator of Conduct and Compliance Officer/Title IX Deputy Coordinator (Official B1) was the first official interviewed. This person is responsible for both the administration of grievances and adjudication of student discipline matters. At the time of the interview, she was serving in the unofficial role of a Title IX Coordinator and overseeing education and training for the campus community. The second staff interviewed was the Director of International Education Program (Official B2), who was also serving as a conduct board member. This person has extensive experience in conduct and Title IX-related issues at a prior institution. Due to the shortage of staff, she was being used to assist with Title IX-compliance efforts at the university.

## **Interview Procedure**

Each interviewee was provided with the Consent Form prior to the interview and asked to review the document (see Appendix C). Prior to the start of the interview, the participants were asked if they had questions regarding the Consent Form. No one did. They all provided permission for their interview to be tape-recorded. All participants signed the Consent Form.

The purpose of the interview was to answer the last two research questions which sought to understand the experiences of administrators in terms of challenges that they face in the implementation and administration of required federal mandates and how they are meeting their identified challenges. The interviews were also used to clarify questions that arose regarding the policies and procedures that were submitted.

The interview questions were broken down into 2 categories based on Research Questions 3 and 4. Question 3 asked: *What challenges do college and university officials face in their implementation and administration of federal mandates pertaining to the policies and procedures studied?* and Research Question 4: *How are university officials meeting their identified challenges?* Follow up questions were generally asked of each interviewee based off responses provided (see Appendix D).

The recording of each interview was professionally transcribed and converted into written form. The interviewees were emailed a copy of the transcript and given a 5-day deadline to note any discrepancies. They were informed that if I did not hear back from them by the stated deadline, it would be assumed that the transcript was correct. Two out of the 4 officials interviewed at Institution A responded and confirmed that the transcript



was correct. The other 2 officials did not respond. 1 out of the 2 officials interviewed at Institution B emailed me back to confirm the content of the interview transcript.

### Documents

In addition to face to face semi structured interviews, documents were used as a data collection method. The collection of documents was appropriate as the study sought to review institutional policies' compliance with federal mandates. According to Creswell (1994; 2007; 2012), documents such as public documents and archival materials are helpful in a qualitative study. Yin (2011) posited that the collection of documents can provide the researcher with "important contextual information to complement [other] fieldwork" (p. 148). While the collection of documents can be time consuming, Yin recommends certain tactics that I utilized in the collection of data for this study.

The first tactic utilized in the selection of the data to be collected was to inquire of the interview participants to provide information that they judged relevant to the research study. Documents such as the institutional policies on sexual harassment/misconduct, code of conduct (CoC), and educational brochures were solicited. In addition, I conducted an online search at each institution's website to determine relevant documents. This allowed me to get a preliminary idea of the documents that were available. The second tactic that was utilized was to review the data received to ensure that they would be relevant to the research study. Where appropriate, I then prepared some clarification questions about specific types of documents found for the interview participants.

The documents reviewed from the institutions included the CoC, Sexual Harassment/Misconduct Policy, brochures of educational programs provided by the

schools and information found on the institution's website. The documents collected were used to complete the Compliance Rubric (see Table 2).

Table 2

*Types of Documents Collected Per Institution*

Institution	Document
A	Code of Student Conduct
	Policy on Sexual Harassment
	Sexual Awareness Taskforce Report
	Sexual Assault Awareness Month Brochure
	Sexual Assault Prevention Brochure
	Health Clinic Newsletter
B	Code of Student Conduct
	Non-Discrimination and Non-Harassment Policy
	Resource Guide for Complainants
	Checklist for Campus Sexual Misconduct Policies

### Compliance Rubric

The first two research questions were measured using a compliance rubric. The rubric was developed using the components from the Task Force (2014). The goals of the Taskforce were “to support institutions of higher education in preventing sexual misconduct, encourage reports of such misconduct, improve responses to reports of such misconduct, and compliance with applicable federal laws” (White House Task Force to Protect Students From Sexual Assault, 2014, p. 1). The checklist outlines areas that are of particular importance for institutions to consider in their written policies. The Task Force recommends that the checklist be used as a guided tool to ensure compliance with federal policies.

The development of the rubric based on the checklist components, provided an objective tool to explore the compliance level of the two institutions and to both

qualitatively and quantitatively compare and contrast the responses from the two institutions. Since the Task Force (2014) was a federal government initiative, utilizing its checklist to create the rubric ensured that the components studied represented the most crucial elements of compliance with federal law. The Compliance Rubric followed the general categories of the checklist. Items with long explanations were slightly revised to be more concise. The 39 components (see Appendix E) that made up the compliance rubric were divided into nine broad categories.

The policies and procedures from each of the two institutions were read and yes was noted next to categories that contained the applicable section in the rubric. Sections that were missing were indicated by a no in the relevant section of the rubric. Incomplete sections were marked with the word “incomplete.” The yes, no, and incomplete sections were then tallied for each institution. The researcher was careful to note ideas/content that did not utilize the same terminology but essentially meant the same thing. After completing the content analysis of the policies and procedures of the two institutions to understand their compliance level with the federal mandates, the results of each institution were then compared to each other. . The comparative analysis of the data answered the second research question, which sought to understand how the institutions compared with one another in terms of their compliance to federal mandates.

### **Data Analysis**

The researcher utilized Creswell’s (2007) data analysis spiral to manage, organize and analyze the collected data. Creswell’s approach to data analysis involves “reducing the data into meaningful segments and assigning names for the segments, combining the codes into broader categories or themes, and displaying and making comparisons in the

data graphs, tables and charts” (p. 148). Huberman and Miles (1994) also advises that researchers note patterns and themes, count frequency of codes, and making contrasts and comparisons (as cited in Creswell, 2007). According to Bloomberg and Volpe (2008), “coding and categorizing involve the ‘constant comparison’ method that continues throughout the study” (p. 98). Thus, the researcher used codes to identify the themes as a basis for data comparison. The methods described were appropriate for the analysis of the interviews and documents as they help shed light on themes that were connected to the research questions.

The approach taken for this content analysis is different from that of Grounded Theory in at least two major way. In Ground Theory, there is “an iterative process of concurrent data collection and analysis (Cho & Lee, 2014, p. 4). The analysis method begins prior to the conclusion of the collection of the data. In content analysis, the researcher completes the data collection process prior to beginning the analysis process. An inductive process was utilized for the generation of codes where the categories or themes were drawn from the data rather from preconceived codes that exist in the literature. The second difference between the two methods is, “content analysis does not focus on theory building; instead, it focuses on extracting categories from the data” (p. 5). For this research study, the development of the themes came from the data as shared by the interview participants.

After all the data was collected for the content analysis of the policies, the researcher examined each piece of policy and highlighted sections that were included in the compliance rubric. Passages that were deemed incomplete were also highlighted. In analyzing the raw interview data, the researcher highlighted words and sections that were

striking and made marginal notes that facilitated the organization of texts in terms of their similarities and differences. The researcher then conducted the analysis of the interviews using qualitative coding methods. The raw interview data was thoroughly read in its entirety several times to foster understanding and determine its usefulness for the study. The researcher then determined the proper thematic categories. The words or phrases were written out clearly and completely. Comments were made within brackets in the margins to separate them from the actual text.

When reviewing the interview transcript, preliminary words or codes were jotted down for future reference. The codes were written in capital letters. Texts were then broken down based on the ideas being expressed. I utilized Saldana's (2009) advice about creating columns very early on to organize the data. The first column developed contained preliminary notes, words or ideas used by the interview participants and the second column contained the final codes. Creswell's (2007) method of "winnowing the data, reducing them to a small, manageable set of themes" was used in the development of the themes and subthemes (p. 153).

### **Institutional Review Board**

The study was conducted in accordance with policies and standards of the Andrews University's (AU) IRB. The first step of the process was for the researcher to submit the Application for Research Involving Human Subjects (see Appendix F) and the research protocol (see Appendix G). The submittal of the application was accompanied by the certification of completion of the Protecting Human Research Participants web-based training course offered through the National Institutes of Health (NIH). A conditional approval was granted from the AU IRB pending the research approval from

the institution's boards. The researcher received final IRB approval from AU once written approval was granted from the research institutions.

All participants were informed of their rights to withdraw consent at any time. They were also informed of how their information would be protected and of the promise of anonymity.

### **Trustworthiness and Credibility**

Qualitative researchers face a number of ethical issues, which include factors relating to informed consent procedures, deception over the purpose of the study and disclosure to participants (Bloomberg & Volpe, 2008). The interview transcript was shared with each participant to verify it for accuracy. According to Creswell (2007), one of the procedures used in the study was developing a more in-depth description of the research participants. Creswell advised researchers to develop “thick, description [that] allows the readers to make decisions regarding transferability” (p. 209). Similarly, in order to better present the study, the researcher describes in detail the interviewees and participating institutions. This approach will allow readers to determine whether the findings of the study can be transferred to other studies based on shared characteristics.

### **Summary**

The focus of this study was to explore the compliance levels of institutions to federal mandates, to compare institutions in terms of their compliance level, and to understand the experiences of the college officials. Chapter 3 provided an outline of the guiding research questions and described the qualitative approach that was used in the study. It identified the research sample and population and outlined the methods of data

collection and the procedures that were used. In addition, the chapter provided an overview of how the researcher approached the data analysis and synthesis process. Finally, it addressed the issues of trustworthiness and credibility.

## CHAPTER 4

### POLICY ANALYSIS AND INTERVIEW FINDINGS

#### **Introduction**

Chapter 4 discusses the findings of the policy analysis and interviews conducted at Institutions A and B. The Title IX Compliance Rubric (see Appendix E) was utilized to determine compliance with federal guidelines and for comparing and contrasting the two institutions' compliance level. Face to face interviews were used to understand the challenges of the officials and explore how they were meeting their identified challenges.

The policy analysis section of the research considered the following two questions:

1. How compliant are the institutions' student on student sexual assault policies and procedures to federal guidelines?
2. How do the sexual assault policies and procedures of the two Midwestern residential higher education institutions compare with one another in terms of their compliance to federal mandates?

To answer the above two questions, the policies and documents received from the institutions were compared to the compliance rubric and their results were compared and contrasted to each other.



## **Policy Analysis Results**

### **Institutional Compliance with Federal Mandates**

#### **Institution A Compliance Level**

Institution A has two distinct policies that address sexual misconduct. One is called, *Policy on Sexual Harassment* (PSH) and falls under the purview of the college's HR department. The second, *Student Rights and Responsibilities/CoC* (2014) falls under the jurisdiction of the provost. At the conclusion of an investigation that involves a student complainant, the Title IX investigator, in consultation with the Title IX Coordinator, may refer the matter to the student conduct process. The PSH was last revised in 2016. At the time of the interview, a revised final draft of the CoC was in the process of being reviewed by the leadership team. The last revised draft was in 2014.

The absence of a single policy, resulted in the researcher going back and forth between the CoC and PSH policies and piecing together their content in exploration of compliance. For example, Component II.3 under the Scope of Policy category of the Compliance Rubric is split between the two different policies of the CoC and the PSH at Institution A. Component II.3 of the rubric advises institutions to describe the scope of the policy by identifying the persons, conduct, locations (including off-campus) covered by the school's sexual misconduct policy. According to the PSH (2016), "This policy applies to all members of the [college community] (students and employees) and third parties" (p. 1). While the scope in the PSH indicated conduct covered by the policy, it neglected to list locations. The information on locations was found to be listed in the CoC.

Component V.13 of the Compliance Rubric is another example where requirements were split between the PSH and CoC policies. The definitions of sexual harassment and hostile environment were found in the PSH while the definition of sexual violence (i.e. sexual assault, non-consensual sexual contact, etc.) was found in the CoC.

Component V.13 of the rubric advises that schools:

Clearly define conduct prohibited by the policy (e.g., sexual harassment, hostile environment caused by sexual harassment, sexual assault, including non-consensual contact and non-consensual sexual intercourse, domestic violence, sexual exploitation, stalking, retaliation, and intimidation. (p. 4)

The above requirement was split between the PSH and CoC at Institution A.

According to the PSH:

Sexual harassment means unwelcome sexual advances, request for sexual favors, and other unwelcome behavior of a sexual nature when:

- submission to such conduct or communication is made a term or condition either explicitly or implicitly of an individual's employment or status in a course, program, or activity; or submission to or rejection of such behavior is made, explicitly or implicitly, a term or condition of an individual's employment or status in a course, program, or activity; or
- such behavior is so severe, persistent, or pervasive that a reasonable person would find that it: alters the terms or conditions of a person's employment or educational experience, or unreasonably interferes with an individual's employment, or performance in a course, program or activity, thus creating a, hostile or abusive working or educational environment. (p. 1)

The above passage does not contain definitions for sexual assault, including non-consensual contact and non-consensual sexual intercourse, domestic violence, sexual exploitation, stalking, retaliation, and intimidation as recommended by the rubric. The missing definitions were found, however, in the CoC.

The policies and procedures of Institution A were found to contain seven of the 39 components of the Compliance Rubric. The seven components included both sections under the Introduction category (I.1, I.2); two sections under Scope of Policy (II.3, II.4),

one section under Definitions (V.13), Reporting Policies and Protocols (VI. 20) and Grievance/Adjudication Procedures (VIII.35). Component V.14 was found to be incomplete. This component advises institutions to clearly define consent, to include: (1) it is voluntary; (2) cannot be given due to incapacitation; (3) can be withdrawn at any time; (4) past consent does not imply future consent; (5) silence does not imply consent; (6) and coercion, force, or threat invalidates consent. Institution A refers to consent as “effective consent” and defines it as:

words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective consent cannot be gained by force, by ignoring or acting in spite of the objections of another, or by taking advantage of the incapacitation of another, where the accused student knows or reasonably should have known of such incapacitation. Effective consent is also absent when the activity in question exceeds the scope of effective consent previously given. It is strongly recommended that consent be obtained in writing.  
(p. 4)

Institution A’s definition does not include elements three and five in its definition. Therefore, it was considered incomplete.

Out of 39 components, 31 were found missing from the policies of Institution A. Three of the 31 were too vague and determined not to meet the requirements. For example, Component VI.15 exhorts universities to identify formal reporting options (e.g., criminal and institutional complaint, including contact information of individuals of whom one can make a report). In both the PSH and CoC, Institution A vaguely referenced that complaints may be filed with the “college’s designated Compliance Officer” (PSH) or the respective “Designated Administrators” (CoC, 2014, p. 6) without providing the contact information for such person. The CoC refers the reader to consult Article II (A-F) for information on reporting but that section does not reference any methods of reporting. It only states that the “Title IX Coordinator (or his or her designee)

shall be authorized to determine whether or not to hear all Title IX violations” (CoC, 2014, p. 5). In addition, the CoC indicates that reports can be made in writing and/or orally but no specific mechanism (i.e., incident report form) is provided. There is also no indication that complaints may be filed anonymously.

The second component that was found to be too vague in the policies of Institution A was Component VI.26, which advises that complainants be informed that information may or may not be shared during parallel investigation with law enforcement. The component advises schools to: “Set forth parameters and clarify what information may or may not be shared during a parallel investigation with law enforcement (e.g., via a Memorandum of Understanding with local law enforcement)” (White House Task Force to Protect Students From Sexual Assault, 2014, p. 6).

Institution A’s CoC (2014) policy states:

When a student is charged by federal, state, or local authorities with a violation of law, the college will not request or agree to special consideration for that individual because of his or her status as a student. If the alleged offense is also being processed under the Student Code, the college may advise off-campus authorities of the existence of the Student Code and of how such matters are typically handled within the college community. The college will attempt to cooperate with law enforcement and other agencies in the enforcement of criminal law on campus and in the conditions imposed by criminal courts for the rehabilitation of student violators (provided that the conditions do not conflict with campus rules or sanctions). Individual students and other members of the college community, acting in their personal capacities, remain free to interact with governmental representatives as they deem appropriate. (p. 10)

While the policy found in the CoC mentions the relationship between the college and law enforcement officials, it states nothing specific as to how the two agencies work in regard to sexual misconduct reports. The section appears to be a broad policy that is not specific to sexual misconduct but rather applies to all student discipline matters.

Component VIII.34 was the third component identified as being too vague to be considered accurate. This component advises that schools explain if they allow for cross examination and methods they can put in place to prevent the parties from questioning one another. At first glance, the component seemingly appeared to be included in the CoC (2014). It reads:

If the respondent is unable to, or does not wish to meet with the Student Judicial Officer (or his or her designee) in person, the student may submit a statement in writing (via their college email account or in person) responding to the allegations, within the notification period (three (3) business days from deliverance of notification letter).

Other arrangements may be made to facilitate the meeting such as video or teleconference when a face to face meeting may be difficult for the student and at the sole discretion of the Student Judicial Officer (or his or her designee). In situations where a meeting other than a face to face meeting will be held, the student must provide a copy of their identification to the Student Life office before the meeting occurs. However, a face to face meeting is the preferred option. (p. 11)

While the section in the CoC (2014) appears to address the rubric's requirement, a closer look revealed that it did not as that section (Article IV) of the CoC makes clear the outlined process and procedures found in that document exclude Title IX cases. It states, the practice below [as quoted above] only describes Article II (A) process" (p. 10). Article II (A) states that the outlined conduct "exclude Title IX violations" (p. 6). Nowhere in the CoC or the PSH did it describe the due process procedures for Title IX cases. This was found to be strange since that same document listed the prohibited behaviors that fall under Title IX-related incidents such as sexual violence.

The definitions of sexual assault and consent were described in the policies of Institution A. The CoC defined sexual assault as:

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the program. Sex Offenses are: Any sexual act directed against another

person, without the consent of the victim, including instances where the victim is incapable of giving consent.

1. Rape is the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

2. Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

3. Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

4. Statutory Rape is sexual intercourse with a person who is under the statutory age of consent. (CoC, 2014, p. 6)

The term “Effective Consent” is used in the CoC (2014) and is defined as:

words or actions that show a knowing and voluntary agreement to engage in mutually agreed-upon sexual activity. Effective consent cannot be gained by force, by ignoring or acting in spite of the objections of another, or by taking advantage of the incapacitation of another, where the accused student knows or reasonably should have known of such incapacitation. Effective consent is also absent when the activity in question exceeds the scope of effective consent previously given. It is strongly recommended that consent be obtained in writing. (p. 4)

In addition to the listed definition of consent in the policies of Institution A, there is a section on incapacitation, which describes behaviors (intoxication, sleep, blackouts, etc.), where consent cannot be given.

Incapacitation means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol (or other drug) is involved, one does not have to be intoxicated or drunk to be considered incapacitated. Rather, incapacitation is determined by how the drug or alcohol consumed impacts a person’s decision-making capacity, awareness of consequences, and ability to make informed judgments. (CoC, 2014, p. 18)

As mentioned earlier, the definition of consent was found to be missing several key elements. Table 3 displays the result of the analysis of Institution A’s policy in comparison to the Compliance Rubric.

Table 3

*Institution A Compliance Level*

Rubric Component	Institution A	Notes on Findings
I.1	Yes	
I.2	Yes	
II.3	Yes	Required element(s) split between 2 policies: The scope of the policy lists the persons and conduct covered by the policy in the PSH; location is listed under CoC
II.4	Yes	
II.5	No	
III.6	No	
III.7	No	2014 newsletter from the college's clinic listed off-campus resources and the clinic as a resource. The sporadic publication of such newsletters is the means of educating students on resources.
III.8	No	
III.9	No	See comments in III.7
III.10	No	See comments in III.7
III.11	No	
IV.12	No	
V.13	Yes	Required element(s) split between 2 policies. VI.15
		Definitions of sexual harassment and hostile environment are located in the PSH; the definition of sexual violence located in CoC.
V.14	incomplete	Missing can be withdrawn at any time; silence does not imply consent
VI.15	No	Too vague—counted as missing: The PSH refers vaguely that reports be counted as made to the “college’s designated Compliance Officer” but no contact information is listed. In addition, reports can be made in writing and/or orally but no specific mechanism (i.e., Incident Report Form) is provided; CoC indicates that members of the community can file a complaint against a student for violations of the CoC and that such allegation must be directed to the respective “Designated Administrators.” It refers the reader to consult Article II (A-F), However, that section does not reference any methods of reporting.
VI.16	No	
VI.17	No	
VI.18	No	
VI.19	No	
VI.20	Yes	
VI.21	No	
VII.22	No	
VII.23	No	
VII.24	No	
VII.25	No	
VII.26	No	Too vague—counted as missing: CoC mentions the relationship between the college and law enforcement officials. However, nothing specific to how the two agencies work in regard to sexual misconduct reports.
VII.27	No	

Table 3—*Continued.*

VIII.28	No	
VIII.29	No	
VIII.30	No	
VIII.31	No	
VIII.32	No	
VIII.33	No	
VIII.34	No	Too vague—counted as missing: The process described for cross examination does not appear to be in the institution’s outlined Title IX process.
VIII.35	Yes	
VIII.36	No	
VIII.37	No	
IX.38	No	
IX.39	No	
Total Yes=7 (18%)    Total No=31 (79%)    Total Incomplete=1 (3%)		

Institution A reported two incidents of forcible rape in its 2014 Clery report that occurred in 2013. No incidents were reported in the 2013 and 2012 Clery reports. The first case that occurred in the 2014 published report involved a female complainant who lived on-campus. The respondent was a visiting male non-student who was accused of nonconsensual contact and penetration. The parents of the complainant came to campus and demanded actions from the administration. The parents eventually withdrew their daughter from school and took her home. The second case involved the alleged penetration of a female student without consent by a male student. The female student reported that she was offered and consumed a Gatorade drink, which contained alcohol. She was found with a Blood Alcohol Content of .32, about 4 times the state’s legal limit. Both cases were referred to law enforcement agencies but no criminal actions were taken.

In 2014, Institution A formed a Taskforce with the goal of developing recommendations that would assist the college in being more proactive in addressing issues of discrimination, sexual assault and harassment. Specifically, the taskforce was to



identify means in which the college could ensure the safety of students, employees, and guests. The Taskforce reviewed a number of the college's policies, including the sexual harassment policy, non-discrimination policy and the CoC. It also reviewed similar policies from community colleges and other colleges and universities in their state.

Institution A's taskforce found that the college's former sexual harassment policy was not as comprehensive as that of the other institutions studied. For example, its definition of sexual assault was not expansive; it did not include definitions for other forms of harassment such as stalking; it failed to advise students of their options to contact law enforcement; and adequate educational programs were not offered for students and employees. The recommendations from the taskforce were adopted and implemented by the college's leadership team within the same year. In addition to a revised sexual harassment policy, the college developed a number of educational brochures and programs to educate the college community about sexual harassment and their options.

Institution A has separate sexual harassment/misconduct policies for staff and students. The current revised definition of Sexual Assault based on the taskforce's research is found in the CoC (2014) and reads as follow:

Any non-consensual, intentional physical contact of a sexual nature, such as unwelcome physical contact with a person's genitals, buttocks, or breasts. Sexual assault occurs when the act is committed by: a) physical force, violence, threat, or intimidation; b) ignoring the objections or without the consent of another person; c) causing another's intoxication or impairment through the use of alcohol or other drugs; and/or d) taking advantage of another's incapacitation, helplessness, or other inability to consent. Sexual assault is a criminal act and will be reported immediately to local law enforcement. (p. 7)

As previously mentioned, the PSH, which applies to both students and employees does not have the definition above. The only conduct covered in that policy is sexual harassment, which is not broadly defined to cover other types of sexual misconduct.

### **Institution B Compliance Level**

Institution B has a single sexual harassment/misconduct policy that covers both students and employees. The policy was last updated in 2017. Thirty-seven out the 39 components from the Compliance Rubric were found to be included in Institution B's policies. All the components in categories I–V and VIII of the rubric were found to be included. Category VI contained 2 incomplete sections (VI.20 and VI.21) and Category VII contained one missing section (VII.24). The first incomplete section is VI.20 of the Compliance Rubric, which advises institutions to have a policy that prohibits retaliation against those who participate in investigatory and/or disciplinary process. While Institution B indicates that the policy, protects “any individual for reporting discrimination or harassment” (White House Task Force to Protect Students From Sexual Assault, 2014 p. 1), it excludes a clear statement about the protection of witnesses or those participating in the process other than in the role as reporters.

The second incomplete category found was Section VI.21, which recommends institutions to state when they will grant amnesty from other conduct policies violations. Institution B's amnesty policy (2017) states that it will not pursue disciplinary measures for possible violations of the college's Alcohol and Substance Abuse Policies against a student who reports an alleged violation of the college's sexual harassment policy provided that such consumption does not “place the health or safety of any other person at risk or if the possible violation is otherwise egregious” (p. 8). According to the

Compliance Rubric, the policy is incomplete because it does not provide protection to those who participate in investigatory or disciplinary process as witnesses.

Institution B had one completely missing section (VII.24). The missing section VII.24 recommends that schools explain the processes for preserving evidence. While the Institution B's policy lists information on how complainants can obtain medical attention, it does not explicitly describe how evidence can be preserved. Table 4 displays the results of the analysis of Institution B's policy in comparison to the Compliance Rubric.

### **How Institutions A and B Policies Compare With Each Other**

The second research question sought to discover how Institution A and B compare with one another in terms of compliance. To answer Research Question 2 regarding how sexual assault policies and procedures of the two institutions compare with one another in terms of their compliance to federal mandates, the results of the policy analysis of each institution were compared with one another. In total, the policies of Institution A were found to contain seven complete, one incomplete, and 31 missing components from the Compliance Rubric. The policies of Institution B were found to contain 36 complete, two incomplete and one missing components from the rubric. Both institutions shared the same six complete components (I.1, I.2, II.3, II.4, V.13, and VIII.35). VI.20 was the only component found in the policies of Institution A that was missing in Institution B's. None of the incomplete components were shared between the two institutions. Table 5 displays the comparative data for Institution A and B in terms of their compliance level to federal regulations and to each other.

Table 4

*Institution B Compliance Level*

Rubric Component	Institution B	Notes on Findings
I.1	Yes	
I.2	Yes	
II.3	Yes	
II.4	Yes	
II.5	Yes	
III.6	Yes	
III.7	Yes	
III.8	Yes	
III.9	Yes	
III.10	Yes	
III.11	Yes	
IV.12	Yes	
V.13	Yes	
V.14	Yes	
VI.15	Yes	
VI.16	Yes	
VI.17	Yes	
VI.18	Yes	
VI.19	Yes	
VI.20	incomplete	Retaliation protection not extended to witnesses and those who participate in the process
VI.21	incomplete	Amnesty policy for other conduct such as drugs/alcohol does not extend to witnesses
VII.22	yes	
VII.23	yes	
VII.24	no	
VII.25	yes	
VII.26	yes	
VII.27	yes	
VIII.28	yes	
VIII.29	yes	
VIII.30	yes	
VIII.31	yes	
VIII.32	yes	
VIII.33	yes	
VIII.34	yes	
VIII.35	yes	
VIII.36	yes	
VIII.37	yes	
IX.38	yes	
IX.39	yes	
Total Yes=36 (92%)	Total No=1 (3%)	Total Incomplete=2 (5%)

Table 5

*Institutions A and B*

Compliance Rubric Components	Institution A	Institution B
I.1	yes	yes
I.2	yes	yes
II.3	yes	yes
II.4	yes	yes
II.5	no	yes
III.6	no	yes
III.7	no	yes
III.8	no	yes
III.9	no	yes
III.10	no	yes
III.11	no	yes
IV.12	no	yes
V.13	yes	yes
V.14	incomplete	yes
VI.15	no	yes
VI.16	no	yes
VI.17	no	yes
VI.18	no	yes
VI.19	no	yes
VI.20	yes	incomplete
VI.21	no	incomplete
VII.22	no	yes
VII.23	no	yes
VII.24	no	no
VII.25	no	yes
VII.26	no	yes
VII.27	no	yes
VIII.28	no	no
VIII.29	Yes	yes
VIII.30	No	yes
VIII.31	No	yes
VIII.32	No	yes
VIII.33	No	yes
VIII.34	No	yes
VIII.35	Yes	yes
VIII.36	No	yes
VIII.37	No	yes
IX.38	No	yes
IX.39	No	yes
Total: Yes=7(A)+36(B)=43	No=31(A)+1(B)=32	I=1(A)+2(B)=3
Total Percentage: Yes=55%	No=41%	I=4%

*Note.* I=Incomplete.

## **Interview Results**

This section discusses the findings of the interviews that were conducted. The purpose of the interviews was to identify the challenges that campus officials from the two institutions face in their implementation and administration of the federal mandates and explore how they were meeting their identified challenges. A total of six face to face semi-structured interviews were conducted with officials from the two institutions; four were from Institution A and two from Institution B. The two general questions that the interviews sought to investigate were:

1. What challenges do college and university officials face in their implementation and administration of federal mandates pertaining to the policies and procedures studied?

2. How are university officials meeting their identified challenges?

The above two interview questions were specifically asked of the interview participants. The first question was focused on the challenges that college and university officials faced in their implementation and administration of federal mandates pertaining to the policies and procedures studied. The second question was focused on how the officials were meeting their identified challenges. Questions were asked in varying orders based on the flow of the conversations and responses. Yin (2011) advised the qualitative researcher to “ask a continuous series of questions—the responses to one set of questions quickly leading to yet other questions” (p. 9). Therefore, the semi-structured method utilized in this study allowed the interviewees to speak freely and provided more in-depth information (Creswell, 2007). The decision to include certain selected responses were based on how much the responses were thought to inform the research questions.

An intra-case analysis of the themes and sub-themes that emerged from the officials was conducted within each institution. A brief inter-case comparative analysis was also conducted to understand the mutually shared themes and sub-themes between the two institutions. A more extensive inter-case analysis is provided in Chapter 5. In order for a major theme to have been identified, it had to be shared by at least two officials. The findings regarding the identified challenges and how institutions are meeting those challenges are discussed in this chapter.

### Institution A's Interview Results

#### **Challenges Faced by Officials From Institution A**

The interview data revealed four major themes and four sub-themes from the interviews conducted with officials from Institution A. The major themes and sub-themes were:

1. Lack of training and sub-themes such as, lack of preparedness, confusion over the reporting process, and false sense of safety;
2. Maintaining a fair and impartial process, and sub-themes such as, preventing premature conclusions, and controlling one's emotions;
3. Juggling multiple responsibilities; and
4. Staying abreast of changing legislation/requirements

Officials were also asked how they plan to meet their identified challenges. Three major themes and two different sub-themes emerged. They were:

1. Provide robust training for students and employees and sub-themes such as, modification of the Resident Advisor (RA) peer leadership role, awareness campaigns; training to specialized groups; and safety measures
2. Collaborate with internal and external partners, with consultation with the institution's legal and conference attendance serving as sub-themes; and
3. Appropriately share out information with the community.

The four officials interviewed from Institution A identified a total of four challenges they faced relating to their implementation and administration of federal mandates pertaining to student sexual misconduct. The two officials (Official A1 and Official A2) who were interviewed together agreed on all the four stated challenges. While their areas of agreement could have been because the interview was conducted together and one of the officials was supervised by the other, the researcher sensed that their agreement was genuine. For example, when one official described a challenge, the other would agree by utilizing non-verbal cues such as a shaking of the head and/or smiling in agreement. In addition, each official generally provided examples to corroborate a challenge shared by the other. Officials A1 shared the first and third challenge with Official A2 and A3. Official A4 shared the second challenge with Officials A2 and A3. Thus, the fourth challenge was only unique to Officials A2 and A3. Listed below are some of the core responses from participants within their identified challenge.



## Institution A Challenge 1: Lack of Training

A lack of training was identified as a theme with the sub-themes of RAs not being prepared for their role and students and employees not understanding the reporting process. Officials A1, A2, and A3 listed a lack of training as one of their challenges.

**Lack of preparedness.** This sub-theme emerged from the interview with Official A1. Similar to most institutions, student leaders are hired in the role of RAs to live alongside their peers and serve as a resource. According to the official, RAs are not adequately prepared for their role. She explained:

So, in my mind, we went from being a community college with some dorms to being a residential college. I mean, if you look at some of these small privates, we're as big as them. And we are still using a traditional RA model, but we're using it at a two-year institution. So, what that tells me is that these RAs that we're getting in, best case scenario, they've lived in the dorms for one year, and they're second year. They become an RA. And then, we're a two-year college, so they're gone. That's not the case most of the time. Often times, students have a semester under their belt, if not even less time. And they're becoming an RA. And so, I think one of the things that I did value about a four-year institution was that someone would become an RA, say, as a sophomore and a junior. And you could really give them time to grow as a student before they became an RA, and then give it time to mentor them and to mentor younger RAs.

For Official A1, the lack of preparedness of RAs is inherent to the student demographics of community colleges. Since students typically matriculate to community colleges for two years, the short tenure does not provide adequate time to train RAs to serve in this leadership role. Since Institution A is a two-year college, RAs are typically selected after one semester of matriculation to the college instead of after the one to two years that their peers are selected at four-year institutions. According to Official A1 the "traditional RA model" that is being used is ineffective because it is based off the four year institutions model. According to Official A1:

And so, that peer piece of it, which is often where people feel the safest first disclosing, I don't know that that exists here. I want to emphasize that. I don't want to say that it doesn't exist here. I'm just saying that I don't know that it does. My reslife hat would tell me that there's not enough time to train those students appropriately to have a couple of senior ones that could handle an incident [sexual assault disclosure from residents] like that.

For Official A1, the lack of training of the RAs who serve as peer leaders was a concern. Part of the concern for Official A1 was that RAs serve as a resource where "people feel the safest disclosing" but they lack the training that would make them effective in their role. While, Official A1 did not have the data to confirm that RAs were not adequately prepared to respond to a disclosure of sexual assault from their peers, she drew upon her experience to conclude that was the case. She explained, "My reslife [residence life] hat would tell me that there's not enough time to train those students appropriately to have a couple of senior ones that could handle an incident [sexual assault disclosure from residents] like that." Thus, according to this official, the nature of the community college residential program has created a group of inexperienced student leaders who are not equipped to deal with issues of sexual violence that may be reported to them by their peers.

**Confusion over the reporting process.** The second sub-theme that emerged from the lack of training major theme was identified by Officials A1, A2, and A3. Students, faculty and staff are confused over whom to report cases of sexual misconduct to. In referring to the reporting process, Official A1 stated, "some of the lines are very blurred." Official A1 explained that per the college's written policies, cases involving employees should be referred to HR and those involving students should be referred to herself and

the student ombudsman. But in her view the process was not clear to other members of the college community. Official A2 shared the same challenge. She stated:

My biggest concern is I think generally, on this campus, if anybody says harassment or says something about Title IX, it immediately comes to HR. Like, it's all of yours to deal with where it clearly needs to be a lot of different areas that need to be involved in this.

During the interview, Official A3 nodded in agreement with the above statement. According to the officials, students and employees need training on deciphering which matters should be referred to the HR department. Their lack of training has led to inappropriate reporting.

**False sense of safety.** The third sub-theme relating to training emerged from the interviews with Official A2 and A3. The officials expressed concerns over students' safety and the need to train students to better understand their physical environment. Official A3 stated:

I think in general, one of the issues we struggle with is the fact that students and staff feel pretty insulated here and feel pretty safe here, which is a good thing. But on the other hand, complacency can make you not pay attention, not be aware, and not be alert.

For Official A3, training was needed to help students understand that the campus is not as insulated as they may think and that they need to be mindful of their physical safety and security. Training was needed to combat what she refers to as "complacency" which can cause students to let their guards down.

Official A3 added:

And so that, I think, is a struggle also to make sure students understand that we're not isolated totally. And that non-students and people who have nothing to do with the college can walk on campus and be here and be around. And you can't assume that everybody is a good guy.

The physical structure of Institution A is one that allows open access to community and non-community members. The tendency for students to not understand this reality gives them a false sense of security.

Thus, lack of training was a common challenge for the three officials although they each expressed that challenge in a slightly different way. For Official A1, the challenge was specific to the student leaders residing in housing. For Officials A2, and A3, students and employees needed better training to learn how to appropriately report cases of sexual misconduct. Official A1 also shared the same concern. Officials A2 and A3 through their combined interview identified the need to better train the student population so they understand they are part of an open campus and that not everyone seen on campus should be assumed to be a good guy.

#### Institution A Challenge 2: Maintaining a Fair and Impartial Process

In addition to the lack of training of employees and students, officials from Institution A identified a second challenge of maintaining a fair and impartial process. Official A2, A3 and A4 shared this challenge. The sub-themes that emerged were: preventing premature conclusions, length of time of the external investigation, and preventing one's conduct from impeding with investigation.

**Preventing premature conclusions.** The first emerging sub-theme from the challenge of maintaining a fair and impartial process was the difficulty in keeping students, staff, and faculty from jumping to conclusions. Official A3 stated, "I think one of the biggest challenges is keeping people from jumping to conclusions." When the

researcher asked for clarification on the “people” she was referring to, Official A3 explained:

Students that are in the housing unit, the roommates of the people that are involved because, you know, they seem to--you know, they’ll know right away that something is going on, and even sometimes staff and families... And their social media.

For this official, keeping students, employees and families from jumping to conclusions was a concern. The fast pace of which information traveled among the students living in housing meant that people were instantly made aware of allegations. Furthermore, the use of social media by community members resulted in quick and broad dissemination of information.

For official A3, it has been difficult to contain information surrounding allegations of misconduct, especially if the involved parties live in on-campus housing. She provided the following example:

I would say, maybe 20 students or something that lived in housing were aware of it [one of the two cases of forcible rape reported in the 2014 Clery report]. Half of them were mad because their friend got accused. The other half were friends of the girl. So, I don’t even think as a whole, the housing community itself, it was hot news.

This view revealed the divisive nature of managing complaints of sexual misconduct and maintaining an impartial process. On one side, the friends of the complainant have their own perceptions of the alleged incident. On the other side, the friends of the respondent can be angry because their friend is accused. The officials are caught in the middle of trying to appease both groups and providing a process that protects the two involved parties. The issue of providing a fair and impartial process can become even more complicated when family members are involved. According to Official A2:

Truly, some of our interactions, especially with some of our students living in housing, persons of color, they don't tend to want to talk to law enforcement. But next thing you know, at four o'clock in the morning, here comes some family members from outside of the city that's going to come take care of business. That's the stuff that scares me.

Families and friends who perceived the college as not acting fast enough or appropriately, attempt to resolve the issue on their own. For official A2, the challenge is made more difficult because some students of color do not want to speak with law enforcement. Instead of utilizing that formal channel, they reach out to families and friends, which can aggravate an already sensitive issue. Official A3 shared a similar sentiment regarding the difficulties of keeping people from jumping to conclusions and families from exercising, "their own internal – their own family justice system or whatever." The officials shared concerns over the potential expansion of the conflict to include family members who may travel to campus in the middle of the night to seek out revenge. The management of the allegations is further complicated if the two involved parties live in housing.

According to Official A2:

The biggest challenge is to try to remain fair, but try to make sure that both parties can continue with school, but make sure that they're both safe. So, sometimes you get people involved. It's like, "Oh, he needs to be kicked out." And it's like, whoa, wait. But I think just trying to find that separation, particularly if they both live in housing. And I think—if I remember right with this case [one of the two incidents of forcible rapes reported in the 2014 Clery report], the young man, I believe, was a visitor to somebody else in housing. So, it was—it would be easy on a temporary basis then to ban that student from entering the housing unit. You can't go in as a visitor. You're banned at the front desk, that type of thing.

The challenge of reacting in a fair manner to both parties while protecting the college community was important to Official A2. According to this official, everyone has an opinion on how to handle the issue. The task of managing the complaint is easier when

one of the parties is not a student as was the case in one of the two cases that they dealt with in 2013, which was reported in the 2014 Clery report. Since the respondent was a non-student, the college was able to easily ban him from entering the residential housing unit. Thus, for the officials, the challenge of preventing premature conclusions is more difficult when the parties are students and the college has to strike a balance between them both.

**Length of time of the external investigation.** The second sub-theme that emerged from the challenge of providing a fair and impartial process was that investigations conducted by external law enforcement agencies was too lengthy. According to Official A3, “it could be, like, a month or six weeks before we hear [the] prosecutor is not going to pursue it [the case].” Thus, for the official the external investigative process can negatively impact the college’s ability to provide and maintain a fair and impartial on-campus process. Turning to face Official A3, Official A2 stated:

It just feels like the most slippery slope because you don’t want to do anything that’s going to impede the investigation, but you don’t want to do anything that’s going to mess with law enforcement. But, in all honestly, law enforcement, I think has been—they’re really busy. So, it’s incredibly slow.

While the officials did not state that their official practice was to wait for the conclusion of an external investigation, they have done so when forensic testing is being conducted. For example in one of the two recent reported cases they dealt with, the complainant claimed that she was drugged but the forensic testing revealed otherwise. Official A4 explained, “what she claimed she could have drank wasn’t there in the testing [conducted by external law enforcement agency].” The college officials were able to utilize the results from the external investigation in the college’s process.

Furthermore, the challenge of an “incredibly slow” external investigation can exacerbate the previously discussed challenge of preventing students, employees and family members from prematurely jumping to conclusions. A slow external investigation negatively impacted the college officials’ abilities to keep pace with the rapid dissemination of information shared on social media and among their college community members.

**Preventing one’s conduct from impeding with investigation.** While Officials A2 and A3 were concerned about the length of the external police investigations, Official A4 was more concerned that his conduct gives the appearance of impartiality. Official A4 explained:

I can’t express how many challenges are out there. I guess I would continue unless I was correct in dealing with this type of stuff and have that feeling and making sure they got the support they needed until additional help was provided because it’s very touchy. Again, at first, you hear this. And it sort of shocks you. But you’ve got to put it into the perspective that again, it’s alleged, but you’ve got to take it very, very serious until the final outcome of the investigation. And at that time, you have to make sure the student that was affected is comfortable because you continue to want to see them complete their education.

I mean, it affects me because I don’t like what people are bringing forth to me what has occurred to them allegedly. But I still have to look at that. And you still have--you’re still a person. You still have inner feelings because you start—I start feeling sorry for the person. But I need to pull myself out and focus on doing the best thing for the individual and not let my feelings take over and remember, even though a person is accused of something, it doesn’t make them guilty at that time.

The challenge for Official A4 was that insuring a fair and impartial process meant that he needed to be careful to not impede the investigation of law enforcement officials. To ensure this, he stated that he did not participate in the investigation process.

Official A4 also expressed the need to ensure that he does not “muddy the waters of the investigation or add more insult to the individual affected” by how he respond to



an allegation. To Official A4, it was important to control his emotions while still appearing empathetic to the reporting party. This sentiment of balancing one's professional conduct was also shared by Official A2, who referred to the investigative process as a "slippery slope" and the need to ensure the college's internal investigation does not impeded the external investigation. In addition to ensuring professionalism in their conduct, both officials A2 and A3 viewed a fair and impartial process as dependent on the process that students are afforded through law enforcement. Official A4 did not share the concern of the slow pace of external investigation but did mention that he tries his best to promptly cooperate with local law enforcement officials.

The three sub-themes discussed make it difficult for the officials to ensure a fair and impartial process. The tendencies for students, employees, and families who do not have the full details of the incident to quickly form opinions and readily discuss their views on social media can create a false view of what the process is. The misinformation can also aggravate the situation and encourage family members to be involved because of their perceived view that the college is not appropriately responding to the allegations. Furthermore, the slow pace of the investigation conducted by external law enforcement agency does not keep up with the rapid information flow in the community and social media. This can in turn exasperate the view that college officials are not providing a prompt and equitable process.

### Institution A Challenge 3: Juggling Multiple Responsibilities

Officials A1, A2 and A3 shared the challenge of juggling multiple responsibilities. This challenge was not shared by Official A4. No sub-themes emerged.

Official A1 explained that at some point she was responsible for overseeing a large advising staff, of campus life and student behavior.

Honestly, we had initially talked about it after Year 1, which has come and gone. And right around Year 1, they said, “Okay. Why don’t you go ahead and take this [oversight of campus life and student discipline]?” I had it for maybe, I mean, honestly maybe three months. I went back to [provost] and I said, until we get the first part [advising] where it needs to be, our agreement was we get the first part where it needs to be. Then, we take on the second [oversight of campus life and student discipline]. In the meantime, maybe you do some work with the second part. In the most diplomatic way I could, I said, this is not what we talked about. She [provost] was awesome about it, both her and [college president]. They were like, “You know what? You’re right. You keep focusing on the one, and then we’ll give you the second part down the road.” I would imagine sometime in the next two years.

For Official A1, the juggling of multiple responsibilities proved ineffective and stressful. She considered her portfolio of overseeing advising too large to juggle along with managing Title IX issues. She was able to successfully renegotiate her large portfolio of responsibilities with the provost and college president. While they agreed to temporarily take away the campus life and student discipline oversight responsibilities from her portfolio, the understanding was that she would resume those responsibilities within a couple of years.

Official A2 also revealed the challenge of juggling multiple responsibilities. She shared a conversation that she had with the college’s president where she informed him, “other schools have several people that handle it [sexual misconduct issues] in different campuses and stuff.” The official wanted to alert her supervisor that the single Title IX Coordinator model that was currently in existence at Institution A was an anomaly at other institutions. As explained earlier in the research, in addition to serving as the College’s Title IX Coordinator, Official A2 was also responsible for overseeing several departments, including HR, Multicultural Affairs, Marketing and Communications,

Special Events, and Public Safety. No deputy coordinators existed. In explaining the limitation of her vast responsibilities, Official A2 explained, “I think it’s a larger conversation we’re going to be having down the road because that’s why I’m like, “[turned to Official A3], I need you at least as a backup if I happen to be out of state or something.” Although, Official A2 recognized the difficulties in her balancing her responsibilities, she was not advocating for the role to be taken away from her. Rather, she wanted to make sure there was a backup staff available to assume the responsibilities of Title IX Coordinator position if she were not available. Official A2 recognized the challenge with her position as it stands and its limitations in managing Title IX concerns.

Official A2 understood the challenge of juggling her multiple responsibilities in the context of the broader higher education landscape. She explained, “probably like every other institution, we could use a couple more people to do nothing but compliance and make sure that we keep up to date.” Although Official A3 did not verbally contribute to the above sentiments, she nodded in agreement throughout the interview to affirm that this was also one of the challenges she was facing.

When asked why Official A2 was designated as the Title IX Coordinator in addition to her large executive portfolio, she replied “you know budget cuts and things.” Thus, the assignment of multiple responsibilities seems to be a result of the institution trying to meet requirements despite its budget constraints.

Thus, for Official A2 and A3, the challenge of juggling multiple responsibilities seem to be better understood within the context of the larger higher education landscape. Official A2 have had conversations with the college president and pointed out that some

schools have more staff working on Title IX related issues. Official A1 also discussed her concerns with the college president.

#### Institution A Challenge 4: Changing Legislation and Requirements

Official A2 and A3 identified the challenge of staying abreast on current legislation. This challenge was not shared by Officials A1 and A4. No sub-themes emerged. According to Official A2:

Just keeping up with the changing federal regulations is a challenge. They can say, “It’s published in the federal register.” Well, okay. Unless you spend time—have time to be pouring over those things and pouring through the guidance on the websites and things, it’s difficult to make sure that you are, indeed, catching all the changes.

For Official A2, the changing legislation has made it difficult for her to stay abreast on regulations. For this official, not only was the task of searching for new legislation difficult, it was also time consuming. Official A3 expressed the same sentiment. She explained:

What I’m finding that some people are saying that even when you do have time to read over it [state and federal legislation], it’s hard to even comprehend what the intent was and how to actually implement it practically in your day-to-day. . . . And then there’s so many things that overlap and conflict.

For official A3, locating the legislation was only part of the challenge. She indicated the complexities of the legislation made them “hard to even comprehend.” Thus for both Officials A2 and A3, staying abreast with the changing legislation was a mutually shared challenge. The challenge lies in the large number of legislation needed to be tracked and the difficulty in understanding what they mean.

Table 6 summarizes the list of challenges identified by Officials from Institution A.

Table 6

*Institution A's Challenges*

Themes	Sub Themes	Officials
Lack of training	Lack of preparedness	A1
	Confusion over the reporting process	A1, A2 & A3
	False sense of safety	A2 & A3
Maintaining a fair/impartial process	Preventing premature conclusions	A2 & A3
	Length of time of the external investigation	A2 & A3
	Preventing one's conduct from impeding with investigation	A2, A3, A4
Juggling multiple responsibilities		A1, A2, & A3
Staying abreast of changing legislation/requirements		A2 & A3

**How Officials From Institution A Are Meeting Identified Challenges**

The fourth research question sought to understand how officials were meeting their identified challenges. This section provides an intra-case analysis of how the officials from Institution A are meeting their identified challenges. Generally, after an official identified

a challenge, the researcher inquired how the official was meeting the challenge. Three themes pertaining to the identified challenges emerged from the data. They were:

1. Provide robust training, with the four sub-themes of modification of the RA peer leadership model, awareness campaign, training for specialized student groups, and safety measures.
2. Collaborate with internal and external partners, with the sub-themes of reliance on key stakeholders and participating in external professional development opportunities; and
3. Appropriately share out information.

#### Institution A Meeting Challenges Theme 1: Provide Robust Training

One of the challenges identified by Official A1, A2 and A3 was the lack of training of employees and students. The officials identified providing robust training to RAs, students and employees as a means for meeting the challenge of lack of training. The four sub-themes that emerged were to modify the current peer leadership model, implementing an awareness campaign for students and employees, provide training to specialized student groups, and implement safety measures for students.

**Modification of RA peer leadership model.** For official A1, the challenge of lack of training was particular to RAs not having the necessary experience that would enable them to be effective in their role. Official A1 was not sure how to meet this challenge since it seemed to be so inherent to the institution type. She explained:

So, that may be something where we could look to scale up, whether it be sticking with the same model and just really emphasizing the training for those RAs, or

possibly going with a different model, like a para-pro type of model for RAs where it's grad assistants from somewhere else. I don't know.

Since the challenge of lack of training for RAs seem to be inherent to the nature of community colleges, Official A2 had a difficult time figuring out how to meet this challenge. The way that she felt it best to meet this challenge was for the college to consider a different model of peer leadership like a para-professional model where graduate assistants from nearby institutions serve in the RA role. This would ensure that those serving as RAs are more experienced and mature enough to respond to reports of sexual misconduct. The alternative for her was to place a heavier emphasis on RA training and make it more robust.

**Awareness campaign.** Officials A2 and A3 identified the lack of training regarding the reporting process and general safety issues. According to the two officials, one of the ways for meeting this challenge was through the creation of an awareness campaign for students and employees. Official A2 stated:

I think [name of college professor] probably is the one that facilitated a lot of those meetings. I know the college attorney was there as well. Again, it was—I think a lot of it, what we uncovered at that point in time, a lot of it, well, we have policies. But more of it was awareness and letting students know in advance and to do some professional development, things along that line. I think most recently, [name of Official A3] is working [on it]. [Speaking directly to Official A3,] I think the group that you're probably going to pull together for our biannual report may be the same people or some of the same people.

According to Official A2, the success of the robust training that is to be provided will depend on the effectiveness of their awareness campaign to the constituent groups. Official A3 agreed with this sentiment. She explained, how they are pulling together a Sexual Assault Awareness Taskforce to continue to organize awareness and professional development activities that educate students and the

general college community about sexual misconduct and reporting. In addition, Official A3 described the following strategy:

We developed a PowerPoint training that we'll be giving to the—distribute—one, identifying who falls under those [sexual misconduct] categories, and then sharing that information with them [employees] and making sure they're aware of their responsibilities and what they need to do. So, we updated some training materials for that.

For the officials, the awareness campaign would extend to students and employees. Students would be informed of their rights and employees informed of their responsibilities.

**Providing training to specialized student groups.** For Official A3, the responsibility for providing training does not rest alone with the Sexual Assault Awareness Taskforce. Rather it is a joint effort, where she assumed responsibilities for developing and updating training materials. One of the groups identified as needing training was new students and those living in on-campus housing. Official A3 explained:

I'm also having some conversations with admissions about including some [topics relating to sexual misconduct]—at least something in the orientation. And then, there are things like the health clinic newsletters that go into all their emails. So, there's information provided that way.

[I am also] working with them [Housing] this fall is to make sure that they're including that in either their housing orientation or their RA, if they have house meetings or—so we're making sure at least those get it.

For Official A3, providing training when students first begin their tenure at the college was just as important as providing continuous training. The on-going training was seen as something that can be continued with those living in on-campus housing.



Official A1 shared Official A3's idea of providing training for new students at orientation. According to Official A1:

We do offer—we do put information—so, orientation went through this huge revamp a couple years ago, too. Noel Levitz came in and they said, “Your orientation presentation should not ever go past 40 minutes.” Which is pretty quick. So, our orientation is very light, kind of a 30,000-foot view, a little bit about everything, and that's it. We do put safety and security information in their folders so that they have it. Then, it's my understanding that they do a separate housing orientation. Again, not that all students shouldn't have it, but certainly, that population maybe should be targeted for a little bit more training.

According to the officials, the college is looking for effective ways to provide the needed training to students. While they recognize that this training was important, they were being mindful of how much of it they provide in orientation to new students. For Official A3, this training could be provided via a PowerPoint in orientation. For Official A1 the information is best presented as handouts in student folders. Official A3 described how “there are things like the health clinic newsletters that go into their [students'] emails. These print materials served as part of the larger awareness campaign of getting students to understand issues relating to sexual assault and misconduct.

Officials A1, A2, and A3 agreed that robust training needed to be a continuous effort instead of a one-time occurrence. Both officials A1 and A3 agreed that specialized training should be provided to students living in housing. Thus, for the officials the way to meet the challenge of lack of training was to provide robust training to the different constituents of their campus community.

**Implementation of safety measures.** One of the challenges shared by Officials A2 and A3 was the fact that students felt insulated and lacked awareness that the campus

was openly accessible to both community and non-community members. While Officials A2 and A3 described responding to this issue through their awareness campaign, they also implemented safety measures on campus to promote student safety. According to Official A3:

That [training] was one of the big things when we put housing on our campus is, you know, we walked parents and students through the safety of living in housing, which is 24/7. There's someone at the front desk. And I will say from eight o'clock at night until, I think, eight o'clock in the morning.

Official A2 added:

If there's anything big that happens there, there is one [security guards] at each of the front desks. And then, there's also a floating security guard up in the security office that walks grounds and so forth. And I will also say that we have a big event going on in the fieldhouse [campus athletic center]. So, again, I think it's to the point where you're inviting a number of people from other schools and communities that you don't know onto your campus.

We put an extra guard on to be in the fieldhouse, walking the parking lot. It's just to make sure that hopefully, we don't have any issues. And truly, the armed guard at the front desk is one of the issues that came up when we were talking to this girl because it's like, well, there wasn't anyone around. You know, when I left the room, there wasn't anyone I could tell. It's like, you went out the front door, and there's a security guard right here at the desk. And so, just piecing some of that stuff together. And they, they respond, you know?

While the officials were concerned with students feeling like they live in an insulated community, they described their reinforcement of this view by ensuring that law enforcement officials were visible to students. One of their reasons for providing robust security was because their physical campus could openly be accessed by non-community members. However, the appearance of security officials may contribute to the already discussed challenge of students having a false sense of security on campus.

The theme of providing robust training could best be understood within the emergent four themes. The modification of the current peer leadership model would ensure more qualified and trained RAs. The implementation of awareness campaigns could educate students, employees and family members regarding the Title IX process and reporting structure. Providing training to specialized student groups ensure students not only receive training related to sexual misconduct incidents at orientation but also throughout the year. Lastly, the implementation of safety measures respond to the challenge of a physically open campus that can be accessible by non-community members and students' lack of awareness of this fact.

#### Institution A Meeting Challenges Theme 2: Collaborate With Internal and External Partners

The second theme revealed through the interviews was a reliance on internal and external partners to meet identified challenges. This theme was shared by all four officials. The two emergent sub-themes were reliance on key stakeholders and participating in external professional development opportunities.

**Reliance on key stakeholders.** Officials A2 and A3 described how involving the Office of Multicultural Affairs in assisting with addressing concerns of students of color have proven helpful. It has helped build trust between the college and the involved students' families. For example, in one of the two cases reported in the 2014 Clery report, the administrators involved the Director of Multicultural Affairs in their communications with the parents. The administrators reflected that the Director was able to relate to the

families on a deeper level than they themselves were able to relate. According to Official A2:

That one [case] was one where, actually, [Director of Multicultural Affairs], I got [him] involved real early on because it was a student of color and the parents and the whole family showed up. The father happened to be a minister as well. So, [Director of Multicultural Affairs] made a great connect. He's really great at keeping the parents calm and getting them to relax a little bit while we try to do an investigation. Of course, we had called law enforcement as well right away to come out and so they could start their part because she claimed—she said she wanted to press charges.

For Official A2, the Office of Multicultural Affairs has proven successful in defusing tensions from students of color who do not trust law enforcement. The interview participants also expressed support from their institution's leadership team and regarded them as partners. Official A4 explained:

I think there is--there's no gray in this [support from leadership]. I don't know if I'm properly putting that. It's a top priority. We bring people to this campus. One of our advanced top priorities, and [Official A2] is our safety first for students and staff. So, yes.

On a snow day, the [college president] and I set up and did a—he did a meet-and-greet and on that day, he pointed out what was very important to him. Over the years, he's shown his support from staffing to the tools to better the safety and security for people out here.

Official A4 viewed the college president as an internal partner who is supportive of the work that Official A4 was doing. According to Official A4, the president's level of support is demonstrated by ensuring that Official A4 and his team have the tools needed to be successful.

Official A1 also viewed the college president and leadership as a supportive internal partner. She explained:

Well, depending on the nature of it or the severity of it, at times, the leadership team has called a CIT meeting, which is a Critical Incident Team Meeting. I can't recall a time that we've ever called one of those for a sexual assault, but I would

imagine that if a perpetrator was still thought to be on campus and a threat, that that's absolutely something that would warrant calling it.

There seems to be a culture of shared decision making, even if in the words of Official A1, it can feel like “a Monday morning quarterback.” In referring to the leadership support, Official A4 exclaimed, “there's no gray in this.” This sense of collaboration with the leadership and feeling of support were evident.

The reliance on key stakeholders was also identified by Officials A1, A2 and A3 as a way of meeting the challenge of juggling multiple responsibilities. For example, as the Title IX Coordinator, Official A2 shared the need for Official A3 to serve as a backup for her in the event that she was not available. Official A2 identified that idea as “a larger conversation we're going to have down the road” because there currently does not exist someone in the role of Deputy Title IX Coordinator. Official A1 described how she temporarily renegotiated her portfolio of responsibilities with the provost and college president because she was overwhelmed. This shows that she has found a partner in the college provost and president.

In addition to relying on internal partners to meet identified challenges, Officials A2, A3, and A4 described the partnerships with their external local law enforcement agency. According to them, this partnership helped meet the challenge of providing a fair and impartial process. Official A2 explained:

We had called law enforcement as well right away to come out and so they could start their part because she claimed—she said she wanted to press charges. . . . [The complainant] never went forward with that]. I think it was some of the things that we were able to provide law enforcement, such as video and so forth. Once they went back to the second round of questioning some stuff, it's like, yeah. She's just done and wants to go home and honestly, I think she was just trying to keep her reputation intact with her dad as well, too.

For Official A2, the reliance on the local law enforcement agency was important so they could investigate the allegations. Official A4 shared similar sentiment. He explained:

Basically, of course, law enforcement did their portion of it [the investigation into 1 of the 2 cases reported in 2014], and they did a blood alcohol content. And what she claims she could have drank wasn't there in the testing, but quantity—a large quantity of alcohol was. We're not talking me putting a shot or two in a little Gatorade thing. There was a quantity, I believe it was a .32, which is high. That's four times the legal limit, something like that.

For the officials, their local law enforcement unit assisted in the examination of evidence and helping them figure out their next steps. In doing so, it helped the institution provide a fair and impartial process for the involved parties.

Officials A1, A2, and A3 have also relied on the partnership of the college's legal counsel and the college president to help them stay abreast on the changing legislation and ensuring they are operating within best practices. Official A2 explained:

We do have a college attorney as well who is really good about seeing as things are coming through. We have a president who is very active state and nationally who is, again, the state institution is constantly tracking, here is some new bills you want to start watching and keep track of.

Official A1 shared the sentiment. She stated:

Any time we're making any major changes to a policy or creating a policy that involves some type of federal law or regulation or interpretation thereof, he's [college's legal counsel] going to be involved. . . I don't want to imply that he's involved in every policy. I mean, we have policies for records and registration that he wouldn't even see. But, something like harassment, sexual assault, anything that has to do with Clery, work rights, that kind of thing, he's absolutely involved in. [We tell him] . . . these are my changes. Are there any changes that you think I should make or are aware of at the federal level that we need to include in this round.

For the officials, the collaboration with legal counsel has proven helpful in the drafting and revisions of policies. They consult with counsel to better understand the federal requirements. The college president also seemed to be helpful in assisting with

compliance. The officials described how the president tracks policies and keep his staff abreast on new legislation.

According to the officials, the reliance on key stakeholders has proven to be effective for them. The collaboration with internal partners was viewed within the context of the officials working together with their supervisees as well as their supervisor. For example, in the case of Official A1, she collaborated with the Director of Multicultural Affairs, one of her direct reports. However, Official A1 and A4 described collaborating with their supervisor and also feeling supported by those above them. Working with other stakeholders such as the local law enforcement agency and the college's legal counsel have assisted the officials.

**External professional development opportunities.** Not only did officials A2 and A3 rely on the college's legal counsel and president to help them meet the challenge of staying abreast on changing legislation, they also participated in professional opportunities that were external to the college. The officials participated in webinars and attended regional conferences. The last conference that they attended was two years ago in the state's capital. Official A3 shared that her involvement in a national organization has helped her stay abreast of new legislation. She explained:

It's [the organization she is affiliated with] not specific to community colleges or colleges but HR issues in general. But then, there's also [state]—I may not be able to remember the name of it. It's a human resource group that is of [state] community colleges. So, we share information—and they have annual conferences where they get legal updates and information about what's changing.

For Official A3, her involvement in the organization was a way to obtain legal updates and stay abreast on changes. Although Official A4 did not describe staying

abreast of current legislation as a challenge, he shared that he and Official A3 have attended conferences together to better understand legislation. Official A4 stated:

Basically, I've went to quite a few of their schools. It's been a while since I've done that, but we do a lot—a few webinars here and there per year. Like, right now, I'm reviewing the 2016 Handbook because they came out with a new one this year. That's one of my biggest tools. I like to see it on paper.

According to Official A4, the training he attended helped him to become more effective in his role.

For the officials collaborating within internal and external partners meant identifying key stakeholders to work with. These stakeholder included but were not limited to the College's president and legal counsel. In addition, it also meant that they relied on external professional activities such as webinars and holding memberships in professional organizations to assist them in meeting their challenges.

#### Institution A Meeting Challenges

##### Theme 3: Appropriately Share Information

In meeting their third identified challenge of keeping families and the campus community from jumping to conclusions, Officials A2 and A3 stated that they strive to keep the involved parties apprised of developments and update the college community when appropriate. According to Official A2:

[We are] constantly assuring [involved parties] we are investigating, we are taking it seriously, and we will keep them informed. That when we reach a conclusion, they will be notified, and reminding them it is a process and we need to listen to everyone that was involved and give them the chance to have their opportunity to defend themselves or to share what they believe happened. And we try to keep as open a mind as we can while we're in that process so that it is fair.

For the officials appropriately sharing out information entailed ensuring the parties of their due process rights, including their rights to receive notice, an opportunity to be heard, defend themselves and to be informed of the conclusion of



an investigation. Furthermore, the officials constantly provided reassurance to the involved parties that their goal was to provide an impartial and fair process to all involved.

Official A3 agreed with the importance of providing reassurance. She explained the need to ensure the parties that the college was “going as fast as we can” and to “please be patient while we work through this.” This approach speaks directly to the challenge of preventing parties from prematurely jumping to conclusions. Furthermore, since social media has contributed to the rapid rate of information sharing, the reassurance that the case is being managed fast and the call for patience speak directly to the challenges posed.

Table 7 lists the three ways that officials from Institution A are meeting their identified challenges and the emergent sub-themes.

### Institution B Interview Results

#### **Challenges Faced by Institution B Officials**

Although interviewed separately, the officials from Institution B identified the same five challenges relating to their implementation and administration of federal mandates for student-sexual misconduct cases. The five identified challenges were:

1. Multiple staff transitions in a short period of time, with the sub-themes of staff vacancies and inconsistencies;
2. Lack of support from leadership with sub-themes such as, lack of priority and unfamiliarity with Title IX legislation;
3. Juggling multiple responsibilities;

Table 7

*Institution A's Meeting Challenges*

Themes	Sub Themes	Officials
Provide robust training	Modification of RA peer leadership model	A1
	Awareness campaign	A2 & A3
	Training for specialized student groups	A1, A2 & A3
	Safety measures	A2 & A3
Collaborate with internal & partners	Reliance on key stakeholders	A1, A2, A3, A4
	External professional development opportunities	A2, A3, & A4
Appropriately share out information		A2 & A3

*Note.* RA = Resident Advisor

4. Lack of financial resources with sub-themes such as, budget cuts for training and bureaucracy; and
5. Lack of training with sub-themes such as, sporadic and ineffective training and non-compliance.

## Institution B Challenge 1: Multiple Staff Transitions in a Short Period of Time

One of the challenges articulated by both officials B1 and B2 was the number of staff transitions that occurred in a relatively short period of time. Two sub-themes of staff vacancies and inconsistencies emerged.

**Staff vacancies.** At the time of the interview, Institution B had recently experienced a high staff turnover of upper administration. The college president was in his first year of tenure; the role of the provost was being filled by an interim staff; the former DOS, who served as the Title IX Coordinator, left the University after more than 10 years. At the departure of the DOS, the Director of Residence Life, was promoted to interim DOS and Title IX Coordinator. The Director then left the University a few months later. According to the interview participants, the high turnover created a measure of instability and negatively impacted the institution's abilities to adequately respond to Title IX grievances. The college had restructured the DOS position into a VP for Student Affairs position and was in the process of interviewing candidates. The VP of Finance was serving in the Interim role of VP for Student Affairs.

Official B1 stated:

So, at this time two years ago, it [Title IX Coordinator position] existed back in HR. And it went from HR to the dean of students. That person left, so it went to an interim. That person left, so it's now back to the person in HR. But it's transitioned four times. So, in my time here, being a staff member and this being a primary function of my role, I haven't had any consistent support.

Official B2 added:

Well, I think the biggest thing right now has just been the transitional nature of our staffing and particularly within the Title IX Coordinator position. And perhaps, [Official B1] is great and she's very well informed and very capable. But obviously, we have Title IX coordinators for faculty and staff as well that maybe

aren't as much involved in the nitty-gritty policy conversations and are not always around the table.

The multiple transitions were a source of frustration for both officials. Part of the frustration for Official B2 was that the vacancies resulted in not having staff around the table with leadership to discuss the importance of Title IX issues. Official B2 viewed Official B1 as a key decision maker in the process who has not been consulted on decisions. For Official B2, the fact that people without as much knowledge or experience as Official B1 had a seat at the table to discuss Title IX issues with the college leadership showed a lack of respect and support for Official B1's work. The feeling of lack of support was also expressed by Official B1 who expressed frustrations that the transitions left her with a lack of direction and support in her role.

**Inconsistencies.** According to the officials, the multiple transitions also resulted in inconsistencies. Official B1 explained:

For me, the biggest thing is just the inconsistency that we've had. If you look at the bigger picture, we've had four Title IX Coordinator transitions in less than two years, which I think, to be fair, is relatively unacceptable.

I think we are doing some great things related to Title IX, but there's a lot more we need to be doing and should be doing. That's been complicated with the transition in the VPSA [Vice President for Student Affairs]/Title IX coordinator role [Vice President of Student Affairs]. We've done some training of our investigators. But that's not fully where it needs to be. Part of that is something I'm really trying to manage on my own at this point.

Official B2 expressed a similar sentiment. She stated:

And so there [her former institution], we had a team of Title IX coordinators whereas here, we really—I mean, it's like an interim fill-in right now. So, there's not even really one person that is—that's part of their job. So, I find that here, every case that comes up is a little bit different. There's not a lot of structure around, ok, here's what we do.

For Officials B1 and B2, the inconsistencies created by the multiple transitions negatively impacted their abilities to effectively perform their roles. Official B1 referred to this as “unacceptable.” While Official B1 believed that her office is doing great work, she felt that more could be done if there were not so many transitions. For Official B2, the lack of structure created by not having a permanent Title IX Coordinator have resulted in cases being managed inconsistently.

Thus, for the two officials, the multiple staff transitions have been a challenge. Its resulting effect of staff vacancies left a vacuum in the work, which have prevented key stakeholders from having a seat at the table when important issues surrounding Title IX are discussed. Furthermore, the staff vacancies have resulted in a lack of structure that has led to inconsistencies in case management and administration of processes.

#### Institution B Challenge 2: Lack of Support From Upper Administration

A second challenge identified by the officials was what they viewed as a lack of support from the institution’s leadership. The two emergent sub-themes were lack of priority and unfamiliarity with Title IX legislation.

**Lack of priority.** Official B1 and B2 interpreted the lack of support from their leadership to mean that their work and roles were not considered a priority. According to Official B1:

I’m still figuring out where Title IX fits into [college president] priorities. Right now, with a lot of other things happening with the institution, I wouldn’t say it’s priority number one on his list, if it’s on his radar at all. So, that’s challenging because we are doing some great things related to Title IX, but there’s a lot more we need to be doing and should be doing. That’s been complicated with the

transition in the VPSA/Title IX coordinator role. We've done some training of our investigators. But that's not fully where it needs to be. Part of that is something I'm really trying to manage on my own at this point.

And I mean, to be completely transparent, I don't feel like I have a lot of support. And I don't know if that's--I feel like that's a matter of not understanding everything that needs to happen in this area.

For this official, the work of Title IX compliance did not seem to be a priority for the college president. She felt that the lack of support limited her work especially as it pertained to her ability to provide training to investigators.

Official B2 also expressed that she felt unsupported by the college's leadership.

Official B2 stated:

I just don't get a sense of a lot of engagement within issues surrounding Title IX. So, even if we go to the proactive side of it, right, where we need to be providing education to students and faculty and staff. There has been no—so, we have the online modules for faculty and staff. If they don't complete them, there's no consequences for that. There's no follow through from anybody from the upper level saying, "Look. This will impact your job. Or this is part of your role as an employee or as a faculty member to complete this training."

I've seen that at other institutions where that is the priority. Same on the student side of things. We, with the online module, we do require students to complete it. But there's no—I mean, there's only so much teeth that can come from student affairs. Like, at some point, somebody at the upper level is going to have to say, this is important enough that there actually are consequences if students don't do this.

Both Officials B1 and B2 viewed the lack of support from their leadership as impeding their abilities to provide required federal and state training. According to Official B2, the lack of priority for the work of Title IX can be seen through the fact that the leadership does not support consequences for employees who do not complete the required training. Without leadership support, Official B2 believed that she was working in vain in trying to meet the federal and state requirements.

For Official B2, the lack of support was not only regarded as impeding the work of Title IX compliance but was also viewed as the leadership not valuing the officials' work. Official B2 explained:

I think you can definitely see the lack of buy-in and support from upper levels of our administration. So, the fact that there was even a delay in determining who would be handling Title IX incidents when our dean of students left this time, or that there wasn't any sort of official announcement or designation is odd to me. It just doesn't seem like it's a priority for upper levels.

I think we suffer from that a little bit, lack of staffing and support for that role [Official B1's role] right now. It's a little—I mean, when you look at the cover of the *Chronicle of Higher Education* or read any higher education news and see Title IX articles every single day, or there's always stuff happening, to not have it be on the forefront of our campus's priorities is a little bit—I don't want to say—shocking is maybe too strong of a word, but surprising to me.

For Official B2, the lack of priority was evident by the fact that a staff was not immediately designated to fill the vacant position of the Title IX Coordinator role.

This view was also shared by Official B1. While Official B1 also expressed concerns over the vacancy of the Title IX Coordinator role, she, however, viewed it as an impediment to her being able to provide the needed training for staff. Official B2, on the other hand, viewed the Title IX Coordinator staff vacancy as a sign that Title IX compliance was not at the forefront of the college's priority list as it is at other institutions. Official B2 described the prolonged vacancy as “shocking and surprising” because Title IX compliance is such an important national issue.

**Unfamiliarity with legislation.** According to Official B1, related to the challenge of lack of support is what she viewed as a lack of understanding from upper administration of what an institution is required to do under Title IX. She explained:

So even that basic understanding is what I mean when I say I don't think there's a clear picture at the presidential and cabinet level of what this needs to look like

because it doesn't matter where it happened or when it happened or who the perpetrator was. If they're our student, we have an obligation to them. And that's my role and my job. I take that pretty seriously as far as making sure students are receiving what they need so they can stay here and can feel supported here.

Official B1 shared that some administrators have questioned why resources should be provided to students when an incident occurred off-campus or when the perpetrator is not a student. For Official B1, the leadership's lack of understanding of Title IX compliance requirements represented a lack of support for her job and responsibilities. Official B2 expressed a similar view but in the context of the Title IX Coordinator position not being promptly filled by leadership. According to Official B2, the lack of urgency for such an important role was "surprising" and showed a lack of understanding of best practice

Both Officials B1 and B2 expressed a lack of support from upper administration as a challenge. While, the officials' views on the manifestation of the lack of support varied slightly, it was clear that they both strongly felt that their work was not a priority for the college's leadership. Furthermore, both Officials B1 and B2 perceived the work of Title IX compliance that is being done to be subpar to the work at other institutions because of the open vacancies and inability to complete key initiatives. According to Official B1, "there's a lot more we need to be doing and should be doing" if she had the level of support she felt was needed. Finally, the officials interpreted the college's leadership unfamiliarity's Title IX requirements as a testament to their larger concerns of lack of support.



### Institution B Challenge 3: Juggling Multiple Responsibilities

Related to the first two challenges is the third shared challenge of juggling multiple responsibilities. No sub-themes were identified. The transitions and lack of support from the administrators seemed to have created an environment where responsibilities had to be shifted and added to existing job descriptions. According to Official B1:

Part of my biggest challenge is that even when we had the Dean of Students still here, there was a lot that was on my plate where I was functioning as a Title IX coordinator without actually being the Title IX Coordinator. So, a lot of the training and programming comes to me even though it doesn't all relate to students.

Official B1 further explained:

Over the summer, they designated the Director of Residence Life as the interim dean of students. She took over Title IX Coordinator responsibilities. We didn't think it made sense that the Title IX Coordinator was also a Deputy Coordinator. It was actually impossible for the Dean of Students to be that primary person to meet with survivors as they were coming in. So, that got designated to me starting this past fall, fall of 2016.

When I came in, that wasn't initially part of my role, but as of this academic year is when I took on that responsibility. Then, the other deputy coordinators remained the same, although we did have a transition with our dean of faculty. That person left at the end of last academic year. So, that's an interim person right now, too.

The demands on the officials' time was difficult to balance with other competing priorities. According to Official B1, not only was she expected to provide programming to students, but she was also called upon to provide training to employees even though that was not part of her official job responsibilities. Official B1's position was a newly created one at the college. Since there was no one in her position before, she found it difficult to figure out what her role is in regard to Title IX Deputy Coordinator.

Official B2 also expressed the juggling of multiple responsibilities as a challenge.

Official B2 explained:

When I came to [the college], we didn't have a lot in place in terms of Title IX response for our students abroad. So, I worked with our team here to help develop that response procedure. Because of my interest and involvement with various Title IX investigations, not here, but in my previous roles, I've been kept up to date, kept in the loop, trained here as an investigator, and have worked through a couple of incidents.

As the Director of International Education, Official B2's primary role was to oversee the college's international program. However, because of her background in health, safety and emergency response, she stepped up to fill a need at Institution B. Since the institution did not have a lot of processes in place for sexual misconduct in the study abroad program, Official B2 worked with a team to implement some best practices. At the time of the interview, she was serving as one of the trained Title IX investigators for the college.

The college utilized an investigatory model where full-time staff members served as volunteer investigators. Official B2 took the initiative to volunteer her time because of her strong interest in the subject matter and because she felt her past experience would serve the college well. The other staff investigators volunteered their time to make a difference in the college community. Official B2 explained:

In terms of people on campus, like our team of Title IX investigators, a lot of people have decided to be involved with that team because they really care and they care about these issues. But I'm not sure that they're really equipped to respond. Until you respond to one of these issues, which unfortunately I've had to do several times, it is really challenging. It certainly takes a personality type where you can be compassionate but also be able to stay in your role. A lot of people that are involved around campus have a lot of that compassion and care without necessarily having the training and/or just ability to actually deal with what needs to happen. So, that's hard.

The challenge of relying on a volunteer staff investigative model was explained by Official B1. According to her, since staff were juggling multiple responsibilities, the work of Title IX can come as an “afterthought as far as planning and getting initiatives off the ground.” Thus, although staff may have the good will, they may not have the time to devote to the work of Title IX compliance with their already full plate of responsibilities. According to Official B2, the hard work of the volunteer investigators is not “acknowledged anywhere on campus outside of just from [Official B1’s] office right now.” The lack of acknowledgement made it difficult for staff to understand the value of them continuing to juggle their multiple responsibilities.

Both Officials B1 and B2 agreed that they are currently assuming multiple responsibilities in order to remain compliant with Title IX. For Official B1, she was expected to juggle the additional responsibilities of Title IX compliance since she served as the College Title IX Deputy Coordinator. Official B2 assumed the additional responsibilities because of her interest in the field. Similar to other volunteer investigators and board members, Official B2 was free to scale back or relinquish her duties. However, Official B1 did not have this luxury as Title IX compliance was part of her job description.

#### Institution B Challenge 4: Lack of Financial Resources

The fourth identified challenge shared by the two officials was a lack of financial resources. The two emergent sub-themes were budget cuts for training and bureaucracy.

**Budget cuts for training.** Budget constraint was a sub-theme that emerged from the data. According to Official B1:

The other piece, too, is that my budget got cut from last year to this year to the point where I technically didn't even have enough financial support to cover our contract with our online training provider. I think that's the piece where, from an upper-level, people can see this and say, "There's no way we need this much money." But when you think about the funds that it takes to have our online training going, and then, working with an external organization as our confidential advisor, financial resources are needed there.

Like, I don't even have money to work with my peer educators because of the budgetary restrictions. That's been challenging, too, as far as support, not feeling like there's much allocated to this area in general. I think a lot of it comes from not understanding or knowing the big picture. Without having a Title IX coordinator, it's difficult for me to keep on a cabinet level and say, "Hey, I need you to take a day or two out of your schedules to sit down and understand this." It's just not—it's not going to happen right now.

The cut to Official B1's operating budget was interpreted by her to mean that the work of Title IX was an "afterthought" for the campus leadership. In her view, the leadership perceived that she did not need much money to operate. Official B2 shared a similar sentiment regarding budget constraints. She explained:

I know everybody is in a tight budget climate, for sure. I get that. We are, too. But there could definitely be more funding behind other kinds of trainings, right, that we could do. There probably should be more training done within the residence halls. But there's just not funding behind that right now. That's a decision from the upper level and administration.

The budget constraints seem to affect training and compliance in a time when more funding is needed for training. As previously mentioned, Institution B is located in a state that mandates additional regulations for managing student sexual misconduct cases. For example, schools must have what is referred to as a "confidential advisor" to serve as a resource for students. In addition, certain number of hours of training is mandated for school officials. Official B1 explained that because of budget, she could not meet the federal and state training requirements. Furthermore, Official B2 explained that the lack of resources has preventing them from offering pertinent trainings to students living in the residence halls.

**Bureaucracy.** One additional complication related to budget constraints was that staff did not have open access to the institution's legal counsel for consultation.

According to Official B2:

I don't know if [Official B1] talked about this at all, but we don't have any in-house legal counsel here. It's all contract-based work. So, everything that they do, we pay for, which is another budget issue. I know they have reviewed and been involved with the policy creation, but it's certainly not something they're intimately working on a day-to-day kind of basis.

Official B1 also shared the concern over not having open access to the college's counsel to consult on Title IX cases. She stated:

We have external legal counsel. They were heavily involved in this [revision of sexual misconduct policies] process. So, I was the primary person revising the policy this past summer with support of the interim dean of students at that time. It's interesting because my position also, for working as closely as I do with Title IX and conduct, I am not allowed to speak to legal counsel because I'm not at the cabinet level. So, that's been interesting.

Previously, it [the person who contacts counsel on her behalf] was the—primarily, it's been whoever has been in this interim dean of students, VPSA role. So, over the summer when we were working on revising this policy, the interim dean of students, I would finish a draft. I would send it to her. She would send it over to legal counsel. We went back and forth a couple times with them as far as suggesting revisions and getting the policy to a final place by August.

Although Official B1 was responsible for overseeing sexual misconduct cases and revisions of policies, she was not allowed to directly consult with the college's legal counsel because she was not a cabinet-level employee. This created a bureaucracy where she had to utilize a cabinet level employee—who did not know very much about the subject matter—to serve as a middle person between her and legal counsel.

For the two officials the lack of financial resources were best understood within the two sub-themes of budget cuts and bureaucracy. The budget cuts that were imposed affected the officials' abilities to provide effective training to their campus community.

Furthermore, the college legal counsel's billable fee structure created a bureaucracy that prevented easy access to legal services by the officials that are directly tasked with handling Title IX issues.

#### Institution B Challenge 5: Lack of Training

The fifth and last challenge identified by both Officials B1 and B2 involved the difficulty of providing meaningful training to students and employees regarding sexual misconduct issues. The two emergent sub-themes were sporadic/ineffective training and non-compliance.

**Sporadic and ineffective training.** In an effort to meet federal and state requirements, Institution B provided both in-person and online training to employees.

According to Official B1, the employee training was too sporadic to be effective.

Official B1 stated:

There's a lot more we could be doing as far as training faculty to understand some of these concepts. We do—maybe I'll circle back to this, but the training of faculty in person is certainly an area of improvement for us. Staff within the division of student affairs have gotten some in-person training, but that was a year ago at this point. For all faculty and staff, we do offer online training that meets our requirements, particularly as far as the [state law]. We are getting ready to launch a new version of that online training to get out to all faculty and staff within the next couple weeks.

According to Official B1, the training of faculty and staff was an area needing improvement, especially since the last training was a year ago. For Official B2 not only was the sporadic nature of the training problematic but the effectiveness of it was also a concern. Official B2 stated:

A lot of faculty and staff see the online training as something they need to do. But when they're faced with a student coming to them, reporting to them, I don't know if all of them trigger in their brain back to that training to know who they

need to report to and how it needs to get done. Some are certainly better than others, I would venture to guess, just based on interactions that I've had with reports coming to me.

For Official B2, while some faculty and staff were able to retain their training and knew how to respond to a report of sexual misconduct, others did not. Thus, the concern regarding providing training on a more consistent basis was also as important as the need to provide training in an effective manner for staff.

The officials were also concerned about training effectiveness for Title IX Investigators. Official B1 stated:

I would say our biggest challenge right now is that training piece, right? With all the transition that's happened, I would really like to see that be more of a consistent presence on campus as far as training our investigators and hearing panel and just getting more training available throughout the year.

Official B2 agreed and stated:

I think that could be better. In terms of people on campus, like our team of Title IX investigators, a lot of people have decided to be involved with that team because they really care and they care about these issues. But I'm not sure they're really equipped to respond. Until you respond to one of these issues, which unfortunately I've had to do several times, it is really challenging. It certainly takes a personality type where you can be compassionate but also be able to stay in your role. A lot of people that are involved around campus have a lot of that compassion and care without necessarily having the training and/or just ability to actually deal with what needs to happen. So, that's hard.

For Official B1, the inadequate training of the investigators was related to the multiple transitions that have occurred. The transitions shifted the priority away from training. For official B2, the lack of training was due to the fact that the investigators have not been involved in enough cases that would allow them to practice the skills that they learned. Thus, while the investigators were willing to learn, they lacked the skills needed for them to be successful in their role and Official B1 did not seem to

have the time to provide additional training because of the expansion of her responsibilities.

**Non-compliance with training.** The challenge of lack of training was also expressed in the context of faculty, staff and students not complying with the college's online training program and the lack of existing accountability measures that forced compliance. Official B1 stated:

Where we struggle is that there is currently no accountability for our returning students. The decision was made previously that there would be no registration holds or other impediments for students in the process. I don't know if that will change once we get a new VPSA and Title IX coordinator. So, we're still working through kind of, like, re-upping the online training for a lot of our returning students.

Official B2 agreed and stated:

So, even if we go to the proactive side of it, right, where we need to be providing education to students and faculty and staff. There has been no—so, we have the online modules for faculty and staff. If they don't complete them, there's no consequences for that. There's no follow through from anybody from the upper level saying, "Look. This will impact your job. Or this is part of your role as an employee or as a faculty member to complete this training."

I've seen that at other institutions where that is the priority. Same on the student side of things. With the online module, we do require students to complete it. But there's no—I mean, there's only so much teeth that can come from student affairs. At some point, somebody at the upper level is going to have to say this is important enough that there actually are consequences if students don't do this.

The non-compliance with the online training among employees and students seem to be a source of frustrations for the officials. While the primary concern for Official B1 was returning students' non-compliance, for Official B2, the issue of non-compliance was more specific to faculty and staff. Both officials expressed that they would like the leadership to implement an accountability model to force compliance. For students, the accountability may come in the form of a registration block; for staff and faculty it may



come in the form of leadership tying the course completion to the general expectations of the employee's role.

In summary, the lack of training was seen as a challenge for both Officials B1 and B2. That challenge centered around the fact that not enough training was being provided to students, staff and faculty. Of those training that were provided, some were sporadic and not deemed to be effective, particularly those offered to employees and Title IX investigators. The second issue relating to lack of training was the non-compliance of faculty, staff and returning students and the lack of consequences. The challenges for Institution B are listed in Table 8.

#### **How Officials From Institution B Are Meeting Identified Challenges**

In addition to understanding the challenges of the college officials, the purpose of the interviews was to also understand how the officials were meeting or plan to meet their identified challenges. This section responds to research question #4 and provide an intra-case analysis of how the officials from Institution B were meeting their identified challenges. The two officials generally listed similar responses in terms of how they were meeting or plan to meet the first four challenges. The two themes that emerged were:

1. Collaborate with internal/external partners, with sub-themes such as, collaboration with key stakeholders and participation in external professional development opportunities; and
2. Provide more robust training with the sub-themes of providing continuous training and targeted group training.

Table 8

*Institution B's Challenges*

Themes	Sub Themes	Officials
Multiple staff transitions in a short period of time	Staff vacancies	B1 & B2
	Inconsistencies	
Lack of support from leadership	Lack of priority	B1 & B2
	Unfamiliarity with Title IX Legislation	B1 & B2
Juggling multiple responsibilities		B1 & B2
Lack of financial resources	Budget cuts for training	B1 & B2
	Bureaucracy	B1 & B2
Lack of training	Sporadic & ineffective training	B1 & B2
	Non-compliance	B1 & B2

Institution B Meeting Challenges  
 Theme 1: Collaboration With Internal  
 and External Partners

Both Officials B1 and B2 stated that they have had to form strong collaboration with internal campus partners in order to meet the five identified challenges of multiple transitions in a short period of time; lack of support from upper administration; juggling multiple responsibilities; and lack of financial resources. The two emergent sub-themes

were collaboration with key stakeholders and participating in external professional development opportunities.

**Collaboration with key stakeholders.** Although institution B’s legal counsel was contract-based and Officials B1 and B2 did not readily have access to him, the officials identified the counsel’s office as a collaborator. In the absence of a Title IX Coordinator and VP for Student Affairs, Official B1 identified the contracted legal counsel as a partner that provided relevant assistance. According to Official B1:

Our legal counsel were the ones that provided the initial Title IX investigator training. They were a part of that team that did that, too. . . . For us, and they did it—so, they are—they contract with a lot of smaller schools in the area. They did a Title IX investigator training for all the schools that they work with. So, it was a pretty big event, and it was a really—I mean, it was a really good training. It was done really well. But that was something that was done not just for [Institution B] but for a lot of schools in the area.

According Official B1, legal counsel’s initial training of the pool of volunteer Title IX investigators was helpful. The fact that the training was not specific to the campus of Institution B did not seem to bother Official B1.

In addition to relying on legal counsel for assistance, Official B1 worked closely with other campus partners such as the Counseling Center and Public Safety Division. Official B1 stated:

The initial response [to a reported case of sexual misconduct] primarily rests with me. So, I have a pretty good working relationship with some of the other areas where we would need to refer students to, especially if we look at interim measures or accommodation of resources. So, I would say the area I work primarily with is getting students connected to counseling services on campus. I have a really great relationship with our director of counseling services.

Usually when I’m meeting with a student and we’re talking of counseling as an option, I ask them, “Are you comfortable with me letting the director know that you met with me?” for a Title IX-related incident? They usually say, “Yes.”

That cues the director to say, “Okay. We need to get this person in to see someone, maybe sooner than somebody we would just put on a wait list.”

She’s [Director of Counseling] been really great in working with those students and getting people in as soon as she can. The other area that I work very closely with is our campus security staff. So, they’re an interesting mix because they have—they’re not a sworn police force on campus, but we do have sworn officers serving as campus security officers.

The working relationship that Official B1 has with campus partners has helped her to be effective in her role. The collaboration with the counseling center for example has assisted her in providing better service to students. The Director of the counseling center seems to trust the work that Official B is doing and would move counseling appointments to see a student that Official B1 deemed to be a priority for receiving counseling.

Official B2 also viewed her partnership with internal partners as a way of meeting the identified challenge. According to Official B2:

[Official B1] is pretty amazing. I mean, she’s really taken on the role, even though she’s not—I mean, it’s not in her current job title. And she’s supposed to be support staff for the Title IX coordinator. Really, [Official B1]’s the Title IX coordinator. I mean, that’s what she’s doing. She’s doing all the work. It’s really through her efforts alone that we’re even in compliance, in my opinion, as an institution. So, I say we’re lucky we have that because that’s what’s really keeping us afloat right now. We do have really good people in general that care about the issue that are informed. But, you know, structure is minimal.

Although Officials B1 and B2 faced individual challenges in their respective roles, the two officials served as a support to one another. For Official B2, the successful meeting of the identified challenges could largely be attributed to the efforts of Official B1. For official B1, the partnering with volunteer investigators and board members like Official B2 has helped her be more effective in her role.

In addition to staff support, Official B1 has also engaged student leaders in assisting with some of the identified challenges. Official B1 stated:

As of this February, we've started a Title IX peer educator team that I work directly with. That's a group of—I think we're at 12 or 13 undergraduate students who work with me. They are primarily charged with working with me to plan some programming and educational events on campus. So, right now, we are hopefully getting something off the ground. We're on spring break next week, so the week after spring break will probably be our first event. And then, for this spring, we're really trying to push April since it's Sexual Assault Awareness month. And so, we'll be doing a few different programs throughout that month as well. And then, the goal is that starting in the fall, they'll come back, and they will actually be—they will be going into those first-year seminar courses to do that in-person training with each of those sections rather than just me trying to get around to all of those different groups.

According to Official B1, the peer leadership program will create additional partnership to assist with training and help better juggle the multiple responsibilities that have resulted as a result of staff transitions. The program will help Official B1 be proactive in the training that she provides on campus such as organizing activities for Sexual Assault Awareness Month. The peer leaders complemented the internal partnership that Official B1 has with staff at the college.

In addition to the peer educator program, Official B1 has formed a taskforce with internal and external partners. Official B1 explained:

One thing that I haven't mentioned yet is that we did start our—we do have a campus-specific Sexual Violence Prevention Task Force. So, we had our first meeting. There was one previously, I think, before I started. Then, it kind of died down. But with the new [state] law in place, we had our first meeting in January. Then, our next meeting will be in April. So, we're planning on meeting quarterly throughout the calendar year.

So, me and then representatives on that, I mean, at least for our first meeting our two other deputy coordinators were there. Our executive director for security was there. We had two different representatives from the [local] Police Department. Our YWCA [Young Women's Christian Association] confidential advisor was there. We have such a great sexual assault nurse examiner program at [local] hospital. And so, our SANE was there. She's part of our Taskforce. And

then, a rep—a health services rep from our wellness center on campus. We also invited counseling services staff, but they're so overloaded and busy on our campus that they couldn't be there.

And then, in our next meeting, we'll have some students from my peer educator team. I think that covers everyone. So, that was a really great opportunity to connect and start to think about where do we want to take the Taskforce? How do we want to be involved moving forward? There were some already great things discussed like, again, our SANE program is really great. And they connected with our wellness center about revising some of our policy in that area related to sexual assault response and what that would look like as far as referring students to the hospital.

For Official B1, the recently formed taskforce will assist her in addressing the issues of sexual misconduct on her campus. The taskforce is a mandated requirement from the new state law requiring institutions to have such a group to ensure adequate responses and training for sexual misconduct incidents. Members included representatives from the local police department, the confidential advisor, a member of the wellness center and counseling center, a student, and a Sexual Assault Nurse Examiner (SANE) from the local hospital. At the time of the interview, the taskforce had its first meeting but was not fully active due to staff vacancies. Official B1 explained that it will soon be active again and will meet quarterly. For Official B1, the Taskforce will be instrumental in helping the institution remain in compliance with state law despite its challenges and fiscal limitations.

**Participation in external professional development opportunities.** The officials not only worked with internal partners to meet the identified challenges, but their involvement in external organizations focusing on Title IX issues has helped them stay abreast on changing legislation. Official B1 stated:

So, last year, at fall of 2015, I was able to go to the ASCA Title IX Training Institute, which was a great opportunity for me. I wish it wasn't limited to me. I think it was something the deputy coordinator should have been at.

And it was helpful. I came from an institution before this where I wasn't heavily involved in the Title IX process, but they had really, really great training. So, I have a really good understanding of how things should run. It's just, implementing it fully on our campus is what needs to happen. So, I went to the ASCA Training Institute, which was really great. Then, I also regularly participate in the [local] Title IX Consortium. That meets once a month. I usually try to go to as many of those sessions throughout the year as I can.

According to Officials B1 and B2, the complexity of Title IX issues have encouraged them to be more involved in external organizations that deal with related issues. For official B1, it has been important to be continuously engaged in those training opportunities because of the nature of her position and her lack of experience in the field. The participation in national organizations such as the ASCA and in local consortium groups provided her with the opportunity to stay abreast of both national and statewide legislation. This also created a support system for Official B1 where she could tap into shared resources to better serve her institution. Official B2 also expressed her reliance on her membership in external organizations to help inform her work. For example, she serves on the board of a national safety organizations and routinely participate in professional development opportunities.

#### Institution B Meeting Challenges

##### Theme 2: Provide More Robust Training

Two of the challenges relating to training that the interviews revealed was that the pool of volunteer investigators was not adequately trained to respond to incidents of sexual misconduct and that students, faculty and staff were not receiving adequate

training. Two sub-themes emerged under the theme of providing more robust training. They were to provide continuous training and conduct targeted group training.

**Provide continuous training.** Related to the challenge was a lack of training for students and employees what the officials viewed as sporadic and ineffective training. In responding to this challenge, the officials planned to more effectively utilize the online training module that currently exist for students. Official B1 stated:

We've had that [online training] since about May of--well, yeah, May of 2015. We started with the student module. Then--and then, we added faculty and staff in fall of 2015 when I started. And so, that's a pretty comprehensive module that not only covers Title IX but alcohol and other drugs, gender identity and expression, relationships, a lot of different sort of introductory topics. We get that out to all our incoming students before they arrive on campus. And then, do follow ups during our four-day orientation process. And even if students don't have it completed then, their orientation groups are structured in a way that their groups are actually the same students who are in their first-year seminar course for the fall. So, we have multiple layers of trying to encourage those incoming students to get that done.

And then, again, with the new [state] law, we are sort of re-upping the student module to try to get that new version of the online training out every year to all our students. The first-year piece is really great. Like, I would say that out of our-- I couldn't remember the specific incoming class number, but I could tell you that there's probably less than 15 students who didn't complete it in the fall.

The official seemed enthusiastic about the expansion of the online program as it covered topics such as alcohol, drugs, gender identity, relationship and other related topics. The student training has been a success, boasting an 85% completion rate among new students. Returning students do not have a high completion rate. Official B1 shared that there are discussions to develop a policy that students who do not complete the course cannot register for classes. From the official's perspective it is unclear if a registration block for noncompliance would be supported when a new VPSA is hired.



In addition to providing the online training program, Official B1 stated that there would be opportunities for in-person training follow up with students during orientation and in their first-year seminar courses. This plan would provide continuous and more consistent training to students.

**Provide targeted group training.** In addition to utilizing the training module, the officials were offering training to targeted groups such as fraternities, athletes and employee from specific departments. Official B1 stated, “I’ve done a few other in-person presentations as requested. So, a couple of the fraternities have asked me to come in and do a presentation on the reporting process.” Official B2 also expressed a similar view. She explained:

My department, we do a special training for faculty and students before they go abroad that’s specific to Title IX. There are some athletic teams but not all athletic teams that will have the conversation and talk about bystander kinds of things and training in that way. So, I would say it’s [training] happening to varying degrees, and some of it really is just sort of a grassroots effort or people that just really care about the issue and want to work on it.

Both officials were focused on providing training to specific population. While Official B1’s efforts focused on providing training to fraternities, Official B2 was focused on providing training to students studying abroad and for athletes.

The officials were looking to provide a more robust “campus-wide initiative for faculty and staff, not just the student” (Official B2). According to the officials, the campus wide initiative would provide additional means of being trained in addition to the available online course. Furthermore, the offering of specialized training to various student groups like fraternities, athletes and staff and academic departments seem to represent an effort on the part of the officials to provide educational opportunities outside

of the online training for the community. Table 9 lists the ways that officials from Institution B are meeting their identified challenges.

### **Institution A & B Interview Results**

In total, nine challenges were identified by the six officials interviewed from two institutions. The four identified from Institution A were 1) lack of training; 2) maintaining a fair and impartial process; 3) juggling of multiple responsibilities; and 4) staying abreast of changing legislation/requirements. The five challenges from Institution B were 1) multiple staff transitions in a short period of time; 2) lack of support from leadership; (3) juggling multiple responsibilities; (4) lack of financial resources; and (5) lack of training.

Table 9

#### *Institution B's Meeting Challenges*

Themes	Sub Themes	Officials
Collaborate with internal/ external partners	Collaboration with key stakeholders	B1 & B2
	Participation in external Professional development opportunities	B1 & B2
Provide more robust training	Provide continuous training	B1 & B2
	Provide targeted group training	B1 & B2

*Note.* Although interviewed separately, Officials B1 and B2 listed the same challenges and generally the same way of responding to the challenges.

The institutions also identified how they were meeting their identified challenges. Institution A was meeting or plan to meet its challenges in the following manners: 1) provide more robust training; 2) collaborate with internal/external partners; and 3) Appropriately share out information with involved parties. Institution B was meeting or plans to meet its challenges in the following manners: 1) collaborate with internal/external partners and 2) provide more robust training.

#### Comparative Analysis of Institution A and B's Challenges

The cross analysis of the interview themes revealed that the two institutions shared two mutual challenges. They were: 1) lack of training and 2) juggling multiple responsibilities. The two unique challenges of Institution A were: 1) maintaining a fair and impartial process and 2) staying abreast on changing legislation. The three unique challenges of Institution B were: 1) multiple staff transitions in a short period of time, 2) lack of support from leadership, and 3) lack of financial resources.

#### Comparative Analysis of How Institution A and B's Are Meeting Their Challenges

In meeting their identified challenges, the institutions shared two mutual themes. They were 1) collaborate with internal/external partners and 2) provide more robust training. The third theme was unique to Institution A, which was to share out information with involved parties. The unique theme was specific to two recent Title IX cases that Institution A had to manage.

### Summary

Chapter 4 discussed the findings of the policy analysis and interviews conducted with the college officials. Institution A was found to have an 18% compliance rate with

the Compliance Rubric while Institution B was found to have a rate of 92%. Institution A's policy contained seven components and Institution B's policy contained 36 out of the 39 components. The institutions shared two components (V.13 and VIII.35) and missed the same component (VII.24). No same component was identified as incomplete.

Officials from the two institutions revealed two mutual themes related to challenges faced in their implementation and administration of required federal mandates. Unique challenges were also identified. Two mutual themes of how those challenges are being met were found. One unique theme relating to identified challenges was found from Institution A. The way to meet this unique challenge was also unique to Institution A and related to the management of its two sexual misconduct cases.

## CHAPTER 5

### RESULTS ANALYSIS

#### **Introduction**

The purpose of this multi-case study was to understand the compliance level of the institutions' sexual assault policies and procedures and explore the challenges that officials faced in their implementation and administration of the required federal mandates. An understanding of this research could assist institutions in their compliance and help officials understand each other's challenges and ways they are meeting those challenges. The study was based on the following four research questions:

1. How compliant are the institutions' student on student sexual assault policies and procedures to federal guidelines?
2. How do the sexual assault policies and procedures of the two Midwestern residential higher education institutions compare with one another in terms of their compliance to federal mandates?
3. What challenges face college and university officials in their implementation and administration of federal mandates pertaining to the policies and procedures studied?
4. How are the institutions meeting their identified challenges?

The findings for these four research questions were presented in Chapter 4. The policy analysis findings revealed that neither of the two institutions were in perfect compliance with legislation. Institution A had a compliance rate of 18% and Institution B

had a rate of 92%. A cross-case analysis of the interview themes revealed that the two institutions shared two mutual challenges. They were: 1) lack of training and 2) juggling multiple responsibilities. The two unique challenges of Institution A were: 1) maintaining a fair and impartial process and 2) staying abreast on changing legislation. The three unique challenges of Institution B were: 1) multiple staff transitions in a short period of time, 2) lack of support from leadership, and 3) lack of financial resources. In meeting their identified challenges, the institutions shared two mutual themes. They were: 1) collaborate with internal/external partners and 2) provide more robust training. The third theme was unique to Institution A, which was to share information with involved parties.

This chapter analyzes, interprets and synthesizes the findings within the conceptual framework. The chapter is organized by the following findings based on the four research questions:

1. Finding 1: Institutions may believe they are in compliance with federal legislation when they are not (Research Question 1).
2. Finding 2: Engagement in national organizations/local consortium groups specific to Title IX issues may contribute to better compliance and effective ways of meeting challenges (Research Question 2).
3. Finding 3: An administrator's role at the university may affect how they view or identify challenges (Research Question 3).
4. Finding 4: The identification of challenges and how they are met may be related to both the broader higher education environment and/or issues occurring at the local institutional level (Research Questions 3 and 4).

5. Finding 5: The legislative requirements and institutional financial constraints may be encouraging college officials to form internal and external partnerships (Research Question 4).

### **Model of Policy Analysis in Higher Education**

As discussed in Chapter 3, the conceptual framework that guided this research study was Gill and Saunders' (1993) Model of Policy Analysis in Higher Education. The five key findings listed in this chapter can best be understood within this framework. Stage 1 of the model requires a diagnosing of the problem, which includes an understanding of the environment, organizational structure, and decision-making processes (p. 11). According to the authors, "the voices of those individuals who are unintentionally affected by policy may substantially affect policy implementation" (p. 11). Thus, both the analysis of the policies studied and the experiences of those charged with their implementation and administration are equally important to understand. Stage 2 of the model requires an "unraveling of the policy analysis knot" (p. 22). The four basic components of Stage 2 are: 1) the policy issue, 2) environment, 3) factors affecting policy implementation, and 4) proposed alternatives or recommendations (p. 22).

### **Finding 1: Institutions May Believe They Are in Compliance With Federal Legislation When They Are Not**

One of the most significant findings of the analysis of the interviews and policy data is the lack of awareness from the two institutions in terms of how compliant their institution's policies and procedures were to federal guidelines. This finding was related to Research Question 1, which sought to understand the compliance level of the institutions to federal guidelines. Institution A had an 18% compliance rate and

Institution B had a 92% rate. Despite their non-compliance rate (82% and 8%), the administrators expressed confidence in their institution's policy compliance. For example, Official A1 exhorted, "we do a pretty good job here of following best practices for policies and then also running it by our legal counsel;" Official A2 expressed that the policies are "probably in good shape;" Official A4 expressed that he was "confident" that the policies were in compliance. Their sentiments may have been an institutional "mantra" developed overtime for speaking with outsiders. The mantra did not necessarily coincide with the school's actual written policies and compliance level.

The two officials at Institution B also expressed confidence in their compliance level. For Official B2, the newly revised policy was a big step forward from where the college was prior to the issuance of the DCL in 2011. For Official B1, the new state law helped the college remain in compliance because it is more prescriptive than the federal guidelines. While Institution B's policies were not found to be fully compliant, the low rate of compliance from Institution A's policies was especially alarming.

The lack of compliance from Institution A is an issue that community colleges deal with more than four-year institutions. In a national study of 2,438 higher education institutions in the U.S. and Puerto Rico, Karjane et al. (2002) examined how the institutions were responding to reports of sexual assault. The survey comprised of both private four-year not-for-profit institutions similar to Institution B and public two-year institutions like Institution A. The researchers found that four-year public and private nonprofit institutions, "have made substantial strides in the direction of developing explicit sexual assault policies" (p. viii); whereas, other types of schools such as community colleges lagged behind. Thus, the disparity in compliance may not have been



specific to the two institutions studied. Its cause may be due to external environmental factors and organizational structure of the two institutional types.

### Environmental Factors

The discrepancy between the officials' belief and the reality of noncompliance can be attributed to several internal and external environmental factors. According to Gill and Saunders' (1993) Model of Policy Analysis in Higher Education, "policy analysis requires a comprehensive understanding of the environment and culture affected by the policy" (p. 20). The authors noted:

Actions in one arena have effects in quite different arenas in ways that may be only dimly understood in the process of policy formulation. Particularly in public higher education institutions [like Institution A], but also to a considerable extent in the independent sector, this external political context circumscribes the scope of acceptable decisions. (p. 12)

External factors such as state legislation can directly affect the policies or the implementation of policies at an institution. Decisions made regarding one issue may adversely affect another issue. These are important factors that must be considered in policy implementation.

The political environment in which Institution B operates may explain the compliance disparity between the two institutions. As previously stated, Institution B is located in a state that passed legislation a year prior to the interviews. The new state legislation imposed additional requirements on how institutions were to respond to reported cases of sexual misconduct. The new legislation prompted institutions to reexamine their policies and make changes to ensure compliance. That environmental change at the state level may have led to Institution B having more sound policies. Institution B's policies were the newer set of the two policies studied and were last

revised in August 2016. Institution A's CoC and PSH were last reviewed in February 2014 and November 2016 respectively.

Thus, it may not be accurate to interpret the lack of compliance from the institutions as a lack of goodwill. Rather, the rate of their noncompliance may be best understood within the context of the internal and external factors affecting the institutions.

### **Organizational Structure**

According to Gill and Saunders (1993), the examination of the environment also includes an understanding of the “organizational structures and decision-making processes” (p. 20). The work and governance structure of the field of student affairs or student services often vary between four-year institutions and community colleges. Most four-year institutions utilize a DOS or VPSA to oversee student discipline matters. This person's portfolio may include residence life, student conduct, spiritual life, student health and wellness, and student activities. There is typically a Title IX Coordinator that works in conjunction with the DOS' office to ensure compliance. The student affairs governance structure at community colleges is often one that merges the academic with student support services. The DOS services' portfolio at a community college may include residence life (if residential), student conduct, and support services such as academic advising, disabilities services and tutoring. There is typically no one person dedicated to the Title IX Coordinator role. Instead, the responsibility may fall with a staff member from the college's HR department to oversee both the student and employee process (Block, 2016).

According to the 2011 DCL:

the coordinator's responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. . .The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. (p. 7)

The organizational structure of Institution B more closely mirrors the directive of the 2011 DCL with one designated Title IX Coordinator and two deputy coordinators – one for students and employees. Although some of these roles were vacant at Institution B at the time of the interview, the existing structure may have contributed to their high compliance level as the responsibilities were split between the student and employee populations. Institution B also relied on a pool of trained investigators for assistance with Title IX investigations. In Institution A's model, the VP for Administration served as the Title IX Coordinator. There were no deputy coordinators. Official A3 served in the role of an investigator for both students and employees. Recognizing the need for a Deputy Coordinator, Official 2A shared that she would be looking to assign Official A3 as a deputy coordinator. Official A3's new assignment would then be to serve both students and employees as a deputy coordinator while serving as an investigator for both populations. Although the new model may relieve some responsibilities from Official A2, it would drastically increase those of Official A3 and may not resolve the issues of compliance.

According to Block (2016), the main challenges facing those responsible for Title IX enforcement at community colleges may be the inherent strength of the institution type: It's diversity of students, staff and dedication to ease of access. Many community college students are low-income and non-native English speakers, two populations that are traditionally less likely to report abuse or seek legal action as victims. Since these

institutions are open access, they may be reluctant to ask students about past misconduct or criminal history during the admission process.

Unlike four-year universities, where some broad assumptions can be drawn about a given population's needs and experiences, community colleges cater to a wide variety of learners, coming from a number of different academic and social backgrounds, with an array of academic goals. This confuses education and prevention efforts, and means cases are often complicated by factors that would be rare (or even unique) at four-year institutions. (p. 1)

The diversity of student demographics at community colleges make it difficult for regulations to be broadly applied. Thus, it is likely that legislative requirements that promote an all size fits all model may be contributing to non-compliance because the organizational structure, student demographics and availability of resources at community colleges make it difficult for those institutions to be in compliance.

### **The Problem With the One-Size-Fits-All Model**

Since the organizational structures of four-year institutions and community colleges are vastly different, ccurrent legislative requirements may be contributing to non-compliance. One of the issues that the Obama administration was highly criticized for was the usage of sub-regulatory practices (i.e., DCL, 2011, 2014) to push regulations that treated all institutions the same (Federal Taskforce on Federal Regulation of Higher Education, 2015; Olson, 2015). Those legislation laid down a set of expectations that did not take institutional type or size into account. Another criticism of the sub-regulatory practices is that such approach did not go through the regular congressional rule making exercise and did not provide adequate time for the public debate. In fact, this was one of the reasons provided by the newly appointed 2017 Secretary of Education, Betsy DeVos, when she rescinded two previous DCLs issued by the Obama administration.

According to a 2015 report from the ASCA, community colleges are often excluded from discussions on how to properly prevent and respond to Title IX violations. Advocates argue that many Title IX compliance guidelines do not consider the unique culture and challenges that community colleges face. For one, incidents of stalking are more likely to be reported by community college students than the sexual assault involving incapacitation that are reported at four-year institutions. Two, cases involving community college students are more likely to also involve students with disabilities, who may not fully understand the college's policies and procedures. Three, the large number of non-traditional adult students at community colleges have implications for the type of campus-wide education programs that could prove effective (Nguyen, 2011).

The issue of community colleges being excluded from Title IX compliance discussions is compounded by the fact that these types of institutions often have fewer resources and are unlikely to have a single staff member dedicated to overseeing Title IX issues. The organizational structure and budget constraints make it difficult for community colleges to have large resources such as on-campus health and wellness centers, specific offices responsible for gender-based education, or funds for large scale programming and education. This was evident with Institution A, which does not have the large-scale resources available to educate students. The role of the Title IX Coordinator falls within the purview of the VP for Administration, whose large portfolio of responsibilities make it difficult for her to engage in the traditional work of Title IX Coordinators found at four-year colleges. This research study demonstrates that institutions may struggle with the requirements not because they are unwilling to be

compliant but because they do not have the available resources and staffing levels to do what is required of them.

In their 2015 a bipartisan group of senators formed the Federal Taskforce on Federal Regulation of Higher Education. In their report, *Recalibrating Regulation of Colleges and Universities*, the Taskforce wrote:

Over time, oversight of higher education by the Department of Education has expanded and evolved in ways that undermine the ability of colleges and universities to serve students and accomplish their missions. The compliance problem is exacerbated by the sheer volume of mandates—approximately 2,000 pages of text—and the reality that the Department of Education issues official guidance to amend or clarify its rules *at a rate of more than one document per work day*. As a result, colleges and universities find themselves enmeshed in a jungle of red tape, facing rules that are often confusing and difficult to comply with. They must allocate resources to compliance that would be better applied to student education, safety, and innovation in instructional delivery. Clearly, a better approach is needed. (p. 2)

Compliance with federal regulations is a complex issue that is facing many higher education institutions. The complexity lies in mandates that do not consider institutional type and organizational structures. The “sheer volume of mandates” as pointed out by the 2015 Federal Taskforce on Federal Regulation of Higher Education seems to have resulted in confusing and cumbersome mandates (p. 2). The concern of staying abreast on current legislation was echoed by officials from Institution A.

**Finding 2: Engagement in National Organizations/Local Consortium Groups Specific to Title IX Issues May Contribute to Better Compliance and Effective Ways of Meeting Challenges**

The second finding of the research study is related to Research Question 2. The study revealed that officials at Institution A were more involved in organizations and local consortium groups than officials from Institution B. The incongruence between the

belief of officials from Institution A that they are in full compliance and the reality of their high rate of noncompliance may be explained by their non-involvement in national organizations like the ASCA or with regional Title IX consortium groups, where compliance is regularly discussed and officials are provided with tools to assist them to critically analyze their policies. The lack of participation in those organizations may be due to the goals and priorities of administrators that work at community colleges. Administrators may be too busy attending to the academic needs of their students and rightfully focus their attention in developing programs that will advance students' academic goals. This focus may not leave room to participate in traditional student affairs organizations, whose goals often is to balance the needs of the whole student (Harrill, Lawton, & Fabianke, 2015).

The quality of the organizations the officials were involved with appeared to have made a difference in how compliant their policies were. Both officials from Institution B are members of national organizations that are focused on student discipline, Title IX and compliance. Official B2 served on the board of directors for four years as the health and safety experts for one of her organizations. Official B1 described attending the ASCA Title IX Training Institute, a boot-camp like training for university officials overseeing Title IX cases. Institution B's policy compliance can be interpreted to be partly the result of the professional development opportunities that the officials have engaged in. For example, the Coordinator interviewed at Institution B shared that she belongs to a consortium of Title IX officers and meets regularly with them to discuss best practices. One of the groups that she participates in is a state-sponsored group that provides best

practice training for institutions related Title IX issues and the requirements of the new state law.

Officials from Institution A did not seem to have the depth and quality of involvement in organizations that were specifically related to the work of Title IX. Conference attendance and participation in meaningful webinars by officials from Institution A appeared to be sporadic. Official A3 discussed hers and Official A2's general involvement in an organization that focuses on "HR issues in general" that is not specific to community colleges. The same official was not able to recall the name of the local organization that she was a member of. Her inability to recall may be coincidental or may be due to a low level of engagement in that organization.

It is interesting to note that in the case of Institution A, there appeared to be a reliance on the president and college attorney to keep staff apprised of new legislation. Official A2 described the college president as one who is active in tracking state and national legislation and communicating changes to staff. Whereas, the officials from Institution B took it upon themselves to stay abreast of changing legislation. In fact, Official B1 believed that her college leadership is not well versed in their understanding of legislative requirements as they did not believe student complainants needed resources for incidents that occurred off-campus or when the perpetrator was a non-student. The officials differing views may be due to the fact that the officials from Institution A seemed to have a better working relationship with the President and upper administration than the officials from Institution B.

Increased legislation has created a trend of risk management consulting groups designed to assist institutions with compliance (Brown, 2017). According to the National



Center for Higher Education Risk Management (NCHERM), one of the benefits of participating in such groups is that officials are able to stay abreast on current issues and ensure their policies are in line with best practice and federal guidelines. The 2014, White Paper published by the ASCA further outlined the specific training topics and competencies that officials managing cases of sexual misconduct must hold. ASCA, long considered to be the expert in student conduct administration since its inception in 1986, “supports and serves professionals who transform student behavior and address its impacts within higher education communities” (Bennet, Gregory, Loschiavo, & Waller, 2014, p. 30). The involvement of officials from Institution B in the ASCA and similar organizations may have assisted their compliance efforts.

The work of managing sexual misconduct cases involving students can be difficult and confusing. According to Brett Sokolow, President and CEO of the NCHERM, as quoted in Bendici (2016), “There’s just this multiheaded hydra of a monster going on with Title IX—and all for noble purposes. The body of Title IX knowledge is immense, and it’s constantly expanding” (p. 13). The evolving nature of regulations behooves officials to be more involved in national and local organizations, so they can be engaged in best practice discussions.

According to Gill and Saunders’ (1993) Model of Policy Analysis in Higher Education, individuals affected by policy “may substantially affect policy implementation.” Paul (2016) found engagement in professional networks as “essential” to the effectiveness of Title IX Coordinators. According to the author, “Because Title IX Coordinators found it difficult to get together with other Title IX Coordinators on other campuses, they often relied on professional networks for professional development and

information about Title IX” (Paul, 2016, p. 37). Thus, a lack of engagement in these organizations may impede the effective implementation and administration of policy, as officials would not be exposed to the best practice discussions that are offered at those external conferences.

### **Finding 3: An Administrator’s Role at the University May Affect How They View or Identify Challenges**

The third research finding that the study revealed was that the number of years at an institution and/or the seniority role of staff may correlate with how officials understand and identify challenges. This finding is related to Research Question 3. Gill and Saunders’ (1993) Model of Policy Analysis in Higher Education provides a conceptual framework for understanding the experiences of those in an organization experiencing policy implementation. The model identified several implementation issues. One such issue is the importance of considering “the voices of those individuals who are unintentionally affected by policy may substantially affect policy implementation” (p. 11). The middle managers interviewed at Institution B had a drastically different view and understanding of their challenges than those at Institution A. Officials B1 and B2 who both could be considered middle managers found their juggling of multiple responsibilities, staff transitions and lack of resources to be unsustainable and frustrating. They characterized their challenges in the context of lack of support from leadership. It was clear that they were doing their best but seemed thoroughly dissatisfied with what they interpreted as the upper administration’s lack of support. Official B1 explained, “to be completely transparent, I don’t feel like I have a lot of support from administrators”

who sit on the president's cabinet. She explained that the lack of support is a result of these administrators, "not understanding or knowing the big picture" of her work.

Although the officials at both institutions shared the same experience of juggling multiple responsibilities—and alluded to a lack of resources—the perceptions of those challenges seemed completely different among the officials from the two institutions. While officials from Institution B viewed those challenges as a lack of support from upper administration, Officials A2 and A3 viewed them as a normal reality in the field of higher education. One reason why Official A2 and A3 may have been less critical of their university's approach to Title IX, may have been because they are both considered senior HR professionals, with Official A2 serving on the President's cabinet. By virtue of their seniority, they are in positions where they have the authority to solve their challenges while those from Institution B are not.

Staff longevity may also contribute to how staff view their challenges. Officials A2 and A3 have both been at the institution for over 30 years and have played crucial roles in policy formation. By nature of their roles and longevity, they may have a more comprehensive understanding of the university's budget and priorities. They may have bird's eye view of the president's vision and understanding of institutional limitations in ways that perhaps the two officials at Institution B do not because of their short amount of time in their position and their roles as middle managers.

For the officials from Institution B, the experience in budget cuts was not understood in the context of a larger institutional crisis. It was rather interpreted as an issue imposed on the department that shows a lack of support and priority. This may explain why budget cuts and financial constraints was not listed as a challenge for the

Officials from Institution A. Officials A2 and A3 alluded to it in passing. In explaining why she is the Title IX Coordinator with her large portfolio of responsibilities, Official A2 stated “you know how it is, budget cuts and things...yeah [I wear] several hats” and acknowledged, “probably like every other institution, we could use a couple more people to do nothing but compliance and make sure that we keep up to date.” Her concerns with budget constraints and juggling multiple responsibilities were framed as an issue facing the larger higher education environment rather than something that is institution- or department-specific. This view of the financial constraints within a national context for Title IX offices may explain why the officials were less frustrated with the current state of their affairs.

The longevity of the officials from Institution A may also mean that they have seen more changes and dealt with far more challenges at their college than those from Institution B. This may have created a deeper commitment to their college and a desire to see it be successful. This can be especially true for Official A1 and A3 who serve on the President’s cabinet and are key decision-makers. In addition to their longevity, senior administrators like those interviewed from Institution A, are more highly compensated than middle managers who are affected by the shortage of staff. High compensation levels may have provided official from Institution A with a higher level of tolerance level for challenges than their colleagues from Institution B.

Gill and Saunders’ (1993) Model of Policy Analysis in Higher Education stresses the importance of the “decision making processes” (p. 20) and the roles of the players. The phenomenon that senior level staff and those with greater institutional longevity may view and identify their challenges in different ways than middle managers with less

institutional history may be understood within the context of participative management theory. According to Stueart and Moran (2007) there is a positive correlation between employee participation in shared decision process in an organization and their commitment or invested interest in that organization. Employees who are part of a change management and perceived that they have a role in the change are likely to be committed to the organization. This may explain why the four senior officials interviewed at Institution A expressed their challenges differently than the middle managers from Institution B. Institution A's officials were part of the change managers team; two of them sat on the President's council; and the other two were considered senior managers. Whereas, the officials from Institution B were not considered part of the change managers team. They openly expressed frustrations with their change managers.

According to Rizwan and Latif (2012), employees who struggle with accepting organizational change are likely to not trust their leader or change managers. Hartel (2008, as cited in Fatima, Shafique, Qadeer, & Ahmad, 2015) reports that one indicator of a positive work environment is one where employees perceived "the workplace environment as positive, respectful and leaders as trustworthy and decision making as interactionally, procedurally and distributively just" (p. 1). In his study of US and Canadian employees, Helliwell and Huang (2011) found non-financial characteristics such as the trust in management to be positively correlated with employee well-being. The officials from Institution B described their leaders as unsupportive and unappreciative of their work. They generally viewed the leaders as not making the work of Title IX or compliance efforts as a priority.

**Finding 4: The Identification of Challenges and How They Are  
Met MayBe Related to Both the Broader Higher Education  
Environment and/or Issues Occurring at the  
Local Institutional Level**

The fourth finding relates to Research Questions 3 and 4, which sought to understand the challenges that officials face in their implementation and administration of federal mandates and how they were meeting those challenges. Institutions A and B identified two shared challenges: (1) lack of training and (2) the juggling of multiple responsibilities. The challenges that were unique to Institution A were (1) maintaining a fair and impartial process and (2) and staying abreast on changing legislation/requirements. The challenges that were unique to Institution B were (1) multiple staff transitions in a short period of time; (2) lack of support from leadership; and (3) lack of financial resources. The two mutual ways that were identified for meeting the challenges were to (1) provide more robust training and (2) collaborate with internal/external partners. Institution A identified one unique way, which was appropriately sharing out information. The two mutual challenges identified by the institutions were general to the field of higher education and not institution-specific. The unique challenges were institution-specific and seemed to be a response to the institutional context and environment at the time of the interview.

**Mutual Challenges**

Challenges relating to the administration and implementation of the federal policies are complex and interconnected. The institutions shared the two mutual challenges of lack of training and the juggling of multiple responsibilities. Those two shared challenges seemed to be general to the field of higher education and therefore may

be best understood within the larger higher education environment. According to policy analysis model of Gill and Saunders (1993):

A comprehensive understanding of the environment is a key to good policy analysis, because policy analysis is about real-world problems and real-world decisions. Good analysis depends on the analyst's understanding of the setting and the actors. (Gill & Saunders, 1993, p. 12)

Thus, both institutional context and the larger political culture are important in understanding institutional challenges. The issues surrounding lack of human and financial resources and an increase in regulations in higher education seemed to contribute to the two mutual identified challenges.

### **Mutual Challenge 1: Lack of Training**

Private institutions such as Institution B are typically more resource-rich and have more financial resources at their disposal than community colleges like Institution A (Hauptman, 2001; National Association of State Budget Directors, 2013; National Center for Education Statistics, 2011, 2014; Rivard, 2014). However, it was clear that Officials at Institution B did not believe that they had the resources to be able to meet the imposed requirements. In reality, Institution B possesses more training resources than Institution A. For example, Institution B has a Title IX Peer Educator group of 12 undergraduate students who work with Official B1 to plan programming and educational events on campus around sexual misconduct/harassment. This peer-educator model is common at many private four-year institutions as students who matriculate at those institutions tend to be more engaged in co-curricular activities. It is difficult to find the same level of engagement at community colleges, where the student population tend to be less affluent

and utilize their time out of the classroom to work and/or take care of their family obligations (Nguyen, 2011).

In addition to having a peer educator group, Institution B has been able to present information to new students during the first-year seminar. Official B1 shared that she attended 22 out of the 28 during the year of the interview. The plan was for the peer mentors to begin attending the seminars and providing information about prevention and available resources to their peers. While Institution A has provided some training during new student orientation, Official A1 discussed how they had to reduce the length of orientation per the suggestion of the consulting group, Noel Levitz to “not ever go past 40 minutes.” She explained that the “training” information that is offered is provided as print materials in the students’ folders. Thus, Institution A faces the issue of trying to effectively balance the need for training with that of providing a short orientation session that better accommodates the diverse schedules and interests of their student population.

The challenge of inadequate training can also be understood within the context of organizational structure and culture. The “student culture” on the campuses of community colleges can often feel transactional as students who matriculate in those types of institution tends to be commuters, older, first generation and more economically diverse (American Association of Community Colleges, 2015; Cohen, Brawer, & Kisker, 2013). The traditional age student at four-year institutions may plan to eat, live and be at his college, the same age student at a community college may not be able to be as involved on campus as he may have to balance a job or other priorities (Pannoni, 2015). According Nguyen (2011):

The diversity of this [community college student] population provides a challenging environment in which to foster student engagement. The function and



value of student affairs are often diminished on community college campuses with less emphasis on co-curricular student development. (p. 58)

This structure makes it difficult for community colleges to provide the level of services and programming that is required of them or even at the same level as four-year institutions. While four-year institutions can have day-long student orientation programs, community colleges may not have the same amount of time because of the nature of their student population.

The challenge of lack of training is not an issue only shared by the two colleges in this research study but one that institutions across the nation are dealing with. A 2015 research study published by the ATIXA demonstrates the prevalence of the issue. In that study, 64% of the survey participants were from four year private/public institutions while 27% were from two year/community colleges. Seventy-seven percent were from residential schools compared to 23% from non-residential institutions. Seventy-four percent of the survey participants reported not having sufficient budget to meet student training needs and general Title IX prevention education needs (Sokolow, Lewis, Schuster, Swinton, & Van Brunt, 2015).

One common tool that four-year institutions, including Institution B, utilizes to meet the federal government's on-going training requirement is providing a required online course for students, faculty and staff. Absent such a course, Institution A has had to rely on email communications and sporadic information provided at orientation to meet the requirement. Thus, while institutions may view themselves as not having adequate resources to meet federal guidelines, their view is subjective. The resources that Institution B has at its disposable far out weight those of Institution A.

As demonstrated throughout the literature review in Chapter 2, there is great pressure on institutions to ensure the security and safety of their students. Compliance efforts such as providing on-going training to students serves as a preventative safety tool. Ensuring reporting protocols are in place for students to report misconduct, including an anonymous reporting system, providing students with a transparent process that educate them of their rights and available resources, and providing students with additional safeguards are important. Thus, compliance with the required training components of the federal guidelines are important for promoting the safety and security of students.

Institutions seem to struggle with ensuring students participate in the “required” training they provide for them. There are frustrations over a lack of consequences for students or staff who fail to complete the institution’s required courses. Official B1 shared that the division of student affairs has proposed a registration block for students as a possible consequence for noncompliance. However, that approach may be in direct conflict with the institution’s enrollment management goals.

The other issue that institutions struggle with is understanding or measuring the effectiveness of their training. The officials interviewed shared the concern that despite training, they are not confident employees understand what to do when they receive a report of sexual misconduct. The concern of the campus community not being adequately trained to respond appropriately to reports of sexual misconduct is a very crucial one as federal requirements consider a school is put on notice when a student discloses an incident of sexual misconduct to a responsible employee (DCL, 2011). While it is up to schools to define who their responsible employees are, most schools designate their staff

and certain faculty members. If those officials are unaware of what to do when they receive notice, the school may be held liable for failure to act. Thus, compliance not only protects students but also protect institutions from liability as seen in the literature review.

### **Mutual Challenge 2: The Juggling of Multiple Responsibilities**

Similar to institutions around the nation, the two colleges in this research, have found themselves within a difficult reality of figuring out how to meet the expectations brought by increased regulations and the reality of their tight budgets and sometimes revenue shortfall (Brown, 2015; Paul, 2016). The 2015 research study published by the ATIXA found the challenge of juggling multiple responsibilities to be one of the major challenges that administrators charged with managing Title IX issues face. Seventy percent of the survey respondents reported having multiple assigned roles in addition to their responsibilities with Title IX management. Another 2016 study (Paul, 2016) concluded that the financial and time constraints faced by Title IX Coordinators often resulted in the juggling of multiple responsibilities. The author noted,

One challenge that nearly all of the Title IX Coordinators faced was financial, which included either a lack of budget or a very small one; a lack of staff or Investigators; and a lack of funding for prevention and educational programs... The major challenge was that of time. Title IX Coordinators in dual roles don't have sufficient time for both positions. Finding time for managing both roles and the tasks that are associated with them was a common challenge. (p. 36)

While the expansion of staff roles to include Title-IX responsibilities have helped institutions stay in compliance, it has led to overworked staff. In the case of Institution B, the staff interpreted their juggling of multiple responsibilities to a lack of appreciation of the value of their work. For officials from Institution A, the concern of wearing “many

hats” was also mentioned but not regarded as a sign of devaluation of their work. Rather it was viewed as reality of the field of higher education- one they seem to have accepted.

Possible reasons for the varying perceptions were discussed in Finding 3.

In a survey of Title IX Coordinators among the nation, Paul (2016) found,

Many of them did not actually get paid for the Title IX work they do; rather, they are paid for their other roles, but because most of them inherited the Title IX role, they were not given extra compensation for this work. (Paul, 2016, p. 36)

Thus, not only do Title IX Coordinators juggle multiple responsibilities, they do not receive additional compensation. The Title IX Coordinator role is often time an exempt position, making it ineligible for overtime pay. The additional responsibilities that staff in this role juggle are seen as part of their official duties (Williams, 2014).

### Unique Challenges

The unique challenges for each institution seem to be specific to the institutional context and environment at the time of the interviews. According to Gill and Saunders’ (1993) Model of Policy Analysis in Higher Education, institutional context and culture are important components in understanding a policy. The unique challenges of Institution A were maintaining a fair and impartial process, preventing community members from jumping to conclusions, and staying abreast on changing of legislation. The first two challenges were context-specific as they dealt exclusively with the two most recent cases of reported assaults that occurred in student housing. Throughout the interviews, the participants provided instances within the two reported cases as illustrative of the challenge they identified. The reason why Institution B may not have shared the unique challenges of maintaining a fair and impartial process and preventing community

members from jumping to conclusions may be explained by the fact they have not had any recent reported cases that would have prompted them to activate their new policy.

Since Institution B had not yet activated a full investigation, their challenges were not specific to issues related to case management as was for Institution A. Institution B's two unique sets of challenges of lack of support from leadership and lack of financial resources were related to the management of their institution rather than challenges related case management as seen for Institution A.

It is interesting to note that Institution B did not list staying abreast of changing of legislation as a challenge as was identified by the officials from Institution A. This is an interesting finding as the literature has found that to be a general challenge among college officials (Bendici, 2016). This may be due to the fact that the officials from Institution B were far more involved in national associations and local consortium groups that they felt this need was being met. It also may be a result of the fact that the officials interviewed at Institution B have not yet investigated or adjudicated a complaint of sexual assault and thus were not aware of gaps of knowledge that may exist.

### Meeting of Challenges

Officials found mutual and unique ways for meeting their identified challenges. One mutual manner was providing a more robust training strategy for students and employees. It is interesting to note that Institution A was not found to be in compliance with the two components listed under the Prevention, Education and Training section of the Title IX rubric while Institution B was found to be in full compliance. That section of the rubric advises schools to provide training and educational opportunities for students and employees related to Title IX. The second manner in which officials shared that they

are meeting their identified challenges is through the partnering with internal and external stakeholder. The officials not only identified key stakeholders on their campuses to collaborate with, but they have also found external partners such as their local law enforcement unit and colleagues at other institutions valuable.

Institution A's unique method of meeting its challenges is to provide more information to the involved parties. Since that identified challenge is specific to the two Title IX cases they dealt with, the method of meeting the challenges seems to also be specific to issues surrounding case management.

**Finding 5: The Legislative Requirements and Institutional  
Financial Constraints May Be Encouraging College  
Officials to Form Internal and  
External Partnerships**

Finding 5 is related to Research Question 4, which sought to explore how the two colleges were meeting their identified challenges. Although the intuitions may have identified unique challenges to their mutual shared set of challenges, their responses to those challenges generally mirrored each other. One of the key finding on how they are meeting their various identified challenges is by forming partnerships with internal and external partners.

Increased legislation and financial constraints may be leading college officials to find creative ways to collaborate with internal and external partners. Institutions are creating taskforces comprised of campus partners, such as the counseling center and external partners like their local police force and hospital administrators to more broadly examined ways to effectively respond to cases relating to student sexual misconduct (Paul, 2016). The officials from Institution B included a SANE and a member from the

local YWCA in the membership of their taskforce. In addition to creating taskforces, institutions are creating models of peer educators to help train students. Bystander intervention trainings such as the Green Dot and the Man Project have become popular proactive outreach on college campuses (Dills, Fowler, & Payne, 2016).

Paul (2016) found that one way officials are meeting their challenges relating to Title IX federal requirements is through the formation of both internal and external partners. According to the research finding:

The collaborations they [Title IX Coordinators] have on their campuses are extremely helpful to them in their roles. Because Title IX Coordinators face challenges related to lack of time, relying on others on their campuses has helped them be successful. For example, having a Title IX committee or stakeholders group was helpful for discussing new ideas, sharing Title IX updates, increasing communication, and discussing best practices. All of the Title IX Coordinators had varying practices related to how often they met with their stakeholders, but the topics they discussed were very similar. Some of them held meetings twice a year, some monthly, and others weekly. The meeting frequency depended on what the institutional needs were related to Title IX and the availability of the members. The Title IX Coordinators who met regularly with stakeholders reported that doing so was extremely helpful for them in their roles, and that having shared responsibility for this type of work was useful as well. (p. 36)

The reliance on internal and external partners have proven helpful for officials. Although the collaboration varies among institutions, officials seem to engage with their partners on an as needed basis to discuss best practice and share information. For example, Institution B formed a taskforce comprised of internal and external partners. They recruited a group of volunteer staff investigators and student peer educators. Institution A also spoke of having a taskforce and described their reliance on the Office of Multicultural Affairs to serve as a bridge between the university and students of color.

## **Summary**

Chapter 5 provided an overview of the five research findings based on the four research questions. The first finding was that institutions may believe they are in compliance with federal legislation even when they are not (Research Question 1). Some of the explanations discussed for the varying compliance level were environmental factors and organizational structure. External environment factors such as recent passage of state law may have contributed to the high compliance rate of Institution B. Organizational structure that is inherent to community colleges may have contributed to the lower compliance rate of Institution A.

The second finding showed that engagement in national organizations/local consortium groups specific to Title IX issues may contribute to better compliance and effective ways of meeting challenges (Research Question 2). Officials from Institution B were found to be much more engaged in national and local organizations that were specific to Title IX compliance than Officials from Institution A. One possible explanation for this may be because Institution B is located in a state that recently passed legislation for how institutions respond to student sexual misconduct cases, which fostered more opportunities to be engaged in conversation.

The third finding revealed that an administrator's role at the university may affect how they view or identify challenges (Research Question 3); the four officials from Institution A were senior administrators. Three of them had been at the institution for about 30 years. By the nature of their senior roles and longevity, those administrators tend to identify their challenges within the broader context of the field of higher education. The officials from Institution B, who were considered middle managers and



had less institutional history, tended to identify their challenges within the context of the institution and what they viewed as lack of support from senior leaders.

The fourth finding revealed that the way officials identify their challenges and how they meet them may be related to both the larger higher education environment and/or issues occurring at the local institutional level (Research Questions 3 and 4). Some of the challenges identified were national issues faced by officials at other institutions. Other challenges seemed to be specific to the institutional environment or the number and type of cases that the officials had to manage.

The fifth challenge revealed that legislative requirements and institutional financial constraints may be encouraging college officials to form internal and external partnerships (Research Question 4). In an effort to juggle their multiple responsibilities, officials from both institutions shared their reliance on internal and external partners. This method mirrored how officials from other institutions were meeting their challenges (Paul, 2016).

## CHAPTER 6

### DISCUSSION, CONCLUSION AND IMPLICATIONS FOR PRACTICE

#### **Introduction**

The purpose of this multi-case study was to 1) understand how compliant the two institutions' sexual assault policies and procedures are with federal mandates, 2) discover how each institution compares with one another in terms of compliance, 3) identify the challenges that campus officials from the two Midwestern institutions face in the implementation and administration of required federal mandates, and 4) explore how the campus officials are meeting their identified challenges. This chapter provides an overview of the research design and sampling methods that were used to arrive at the five main findings. A discussion of the findings based on the conceptual framework is presented. Finally, a set of recommendations based on the findings are outlined, my reflection are shared, and the study's conclusions are provided.

#### **Research Design and Sampling**

This study utilized a qualitative research approach. Two residential institutions in the Midwest formed the sample size for this study: one private four-year college and one community college. Two sampling methods were used based on the purpose of the research. Convenience sampling was used in selection of the two institutions studied because of their proximity of the institutions to the researcher and the sensitivity of the

research matter. Purposeful sampling was done in the selection of interview participants to ensure that interviewees were those with direct involvement with student-sexual misconduct cases.

To answer Research Questions 1 and 2, a policy analysis of the sexual assault policies and procedures of each institution was conducted. Participating institutions were asked to share all policies, protocols, brochures and education program materials. A rubric was developed using the checklist created by the Task Force (2014) to evaluate institutional compliance level to federal guidelines. The compliance level of each institution was compared with one another where common and unique elements of each institutional policies and procedures were noted. To answer research questions 3 and 4, semi-structured face to face interviews were conducted with two to four key administrators from each institution to understand the challenges that they face in their implementation and administration of sexual assault policies and how they were meeting the identified challenges.

## **Findings**

The research findings followed the research questions and resulted in the following five conclusions:

1. Institutions may believe they are in compliance with federal legislation when they are not (Research Question 1).
2. Engagement in national organizations/local consortium groups specific to title ix issues may contribute to better compliance and effective ways of meeting challenges (Research Question 2).

3. An administrator's role at the university may affect how they view or identify challenges (Research Question 3).
4. The identification of challenges and how they are met may be related to both the broader higher education environment and/or issues occurring at the local institutional level (Research Question 3 and 4).
5. The legislative requirements and institutional financial constraints may be encouraging college officials to form internal and external partnerships (Research Question 4).

### **The Changing Landscape of Sexual Assault Policies**

The 2011 DCL brought the issue of sexual assault on college campuses to the forefront of the American psyche. Since the issuance of that letter, the topic has been more widely discussed in the media and on college campuses. Additional sub-regulatory guidance like the 2015 DCL to Title IX Coordinators and legislation such as the 2013 signing of the Campus SaVE Act produced a rapid increase of OCR complaints from 2012 to 2017 submitted by accusing institutions of mishandling their cases (Binkley & Wagner, 2014, *Chronicle of Higher Education*, 2018).

The Title IX legislative landscape continues to change and evolve. During the time of this research, two of the Obama era guidance were rescinded by the new Trump administration. According to the 2017 DCL guidance:

[The rescinded] guidance documents may have been well-intentioned, but those documents have led to the deprivation of rights for many students—both accused students denied fair process and victims denied an adequate resolution of their complaints. The guidance has not succeeded in providing clarity for educational institutions or in leading institutions to guarantee educational opportunities on the equal basis that Title IX requires. Instead, schools face a confusing and counterproductive set of regulatory mandates, and the objective of regulatory

compliance has displaced Title IX's goal of educational equity...The Department imposed these regulatory burdens without affording notice and the opportunity for public comment. (p. 3)

The assertion that the 2011 and 2015 guidance were complex and confusing was one that was discussed in the literature review and also confirmed by the finding of this study. The sub-regulatory processes that was used in their issuance was also cited as a concern as they did not allow for public discussions and comments.

The grievance procedures in the new 2017 guidance remained largely consistent with the 2001 Guidance, maintaining the requirement that institutions provide a "prompt and equitable" process to involved parties. However, several key directives from the 2011 and 2015 were rescinded. For example, the required "Preponderance of the evidence" standard under the former DCLs is no longer the required standard. Institutions are now provided with discretion to use preponderance or the "clear and convincing" standard. Under the former DCLs, 60 days was cited as a typical timeframe for complaints to be resolved. The 2017 DCL provided no set timeframe. Instead, it recommends that institutions respond to complaints in a "reasonable" time (OCR, 2017, p. 3). The former guidance prohibited informal resolution to be utilized in sexual assault cases. The 2017 guidance provides no such prohibition. Lastly, the 2011 and 2015 DCLs stated that if appeals are provided in the process, both the complainant and respondent should be provided with the right. According to the 2017 guidance, institutions now have the discretion to limit appeals to only the respondent.

The Title IX legislative landscape continues to change and evolve. The recent #MeToo Campaign of women accusing men of sexual misconduct signals that this issue will continue to remain a part of the public discourse (Alte, Schrobsdorff, Lansky,

Samuelson, Rhodan, & Steinmetz, 2017). During the time of this research, two of the Obama era guidance were rescinded by the new Trump administration. The recent withdrawal of the 2011 and 2015 DCLs signaled a shift in how the federal government will expect schools to respond to such cases. It remains unclear how the Trump administration will change Title IX regulations and how future changes might change institutional culture and policies. Whatever change may occur, it may not be overnight, and institutions will continue to need to find ways to manage sexual misconduct cases involving their students.

### **Recommendations**

One of the important elements of Gill and Saunders (1993) policy analysis model is recommendations formulated as a result of the analysis. The authors advise researchers to “review recommendations in light of their implementation possibilities” (p. 28).

According to Rizwan and Latif (2012):

Organizations need to persistently scrutinize their environment in order to respond in an appropriate manner because it’s a continuous and open process, whereas the idea of planned approach towards change is extremely unsuitable, however there is a need for rapid response towards external environment as well. (p. 48)

The scrutinizing of the environment allows institutions to be more open to recommendations that can positively impact that environment. Thus, helpful recommendations for this study must consider the political and institutional constraints.

The following six recommendations arose from the five key findings and are made within the context of the already identified institutional and political constraints. They are: 1) create a budget designated for the Title IX program, 2) provide continued professional development for staff, 3) implement creative and intentional training

programs, 4) ensure intentionality with assignments of responsibilities, 5) provide staff support and appreciation, and 6) recommendations for future research.

#### Create a Budget Designated for the Title IX Program

One of the challenges officials faced is the lack of resources for the work of Title IX compliance. While most institutions face budget constraints, reallocating funds from current budgets to help meet the needs of staff professional development and student employee training is essential. Designating a specific budget will ensure that institutions can meet the required trainings and outreach efforts. The institution's annual budget should include a line for compliance efforts, which might include staff salary and funds for programmatic efforts. This is important as compliance is less expensive than litigation or being penalized for noncompliance.

#### Provide Continued Professional Development

Institutional compliance relies greatly on the training and skills of the professionals charged with oversight. Thus, the second recommendation is for institutions to make every effort to understand federal requirements and ensure that their policies and procedures are properly aligned. For this occur, senior administrators must regard compliance efforts as a priority and allocate adequate resources in the form of professional development dollars for staff to be able to obtain needed training.

Involvement in national and regional organizations is a low-cost opportunity to stay abreast on current issues. Community college administrators, especially must make sure their policies are specific and clear, so students understand the expectations and the process. The clearer a policy is, the easier it will be for an institution to follow it and the less likely it will be able to be challenged in the courts.

Institutions must be adept at understanding current legislative requirements and find ways to be compliant despite limitations posed by their organizational structure. Institutions with few resources must be creative in the ways they seek to meet the requirements. The successful administrator is one who is able to look beyond their lack of resources and find ways to leverage the skillset and knowledge of others who may not be in a formal role that is associated with Title IX compliance. This was seen at Institution B where Official B1 directly reached out to Official B2 who worked in international education to be a Title IX investigator and board member. Official B1 was able to successfully leverage the past experience of Official B2 to assist her.

#### Implement Creative and Intentional Training Programs

The third recommendation is for institutions to be creative and intentional with the training they provide to students and employees. This is especially crucial for institutions with few resources. One of the identified challenges for the two institutions studied was the lack of training or non-compliance with training without consequences. Institutions, particularly, community colleges must investigate partnering with academic departments and find ways to offer information about Title IX in a required life-skill course. The manner that they provide this information must consider the demographics of their student population so that it is intentional and impactful. According to Levine (2004):

The biggest challenge community colleges face is fragmentation in our programs and isolation and divisiveness among both faculty members and administrators. We need to overcome those obstacles to give our students the liberal-arts education they deserve. None of the missions of community colleges, whether job training or a gentle transition to a higher degree, precludes the need to educate the whole person. (p. 6)



The lack of intentionality in creating a seamless in- and out of classroom student experience at community colleges may affect policies and practices designed to ensure student success. Therefore, community colleges must encourage joint partnerships between faculty members and administrators to effectively educate the whole student body. Information should be introduced at new student orientation, but that training should continue throughout the student's tenure. One way to do this at the community college level, is to provide 20-30 minutes bite size training in common core courses. Training for specialized student groups such as athletes, residents, and student groups may also prove effective. Assessment measures should be built within each training program to ensure learning takes place.

Senior administrators will need to take strong stances, so the university community understands the value of the training programs. Senior administrators may consider working with managers to ensure the completion of training is an expectation and is tied to an employee's annual review. Senior administrators must also work with student affairs to find ways to hold students accountable for completing such training. Institutions must not rely on only an online course but must find ways to provide ongoing training to students in different settings throughout the year.

#### Ensure Intentionality With Assignments of Responsibilities

The fourth recommendation is for institutions to be more intentional in how compliance responsibilities are assigned. The work of compliance and responding to student on student sexual misconduct is difficult and can be emotionally draining. Paul (2016) advises that the Title IX Coordinator not serve as an investigator because of the time-consuming aspect of investigations. While it is tempting for institutions to merge

those responsibilities into the existing responsibilities of other administrators, institutions will need to be thoughtful in how this is done. If not done well or buy-in not sought from key stakeholders, administrators will become disengaged and frustrated with their experiences. Senior administrators must be intentional in sharing their vision.

#### Provide Staff Support and Appreciation

The work of Title IX officers is taxing and frustrating (Karjane et al., 2002; Paul 2016). While financial support may not be feasible, senior administrators should find ways to show their appreciation for their staff's work. This appreciation may come in the form of the sharing of the Title IX's office year-end report with key stakeholders. It may also come in the form of having Title IX officers at the table when decisions are being made that would affect their work.

#### Recommendations for Future Research

The identified themes and subthemes have implications for future research. The following recommendations are made for future research.

1. A quantitative study of the compliance rate of the nation's community colleges to determine how prevalent the low compliance rate found in this study is in other community colleges;
2. A multi-case study involving various institution types to explore their compliance level and understand the challenges they are facing and how they are meeting them. The present research began with three institutions and was narrowed to two due to the third institution withdrawing their participation because of the sensitivity of the subject matter. A larger sample size may better inform the research questions;

3. A mixed-method study of the types of training programs provided across varying institution type and the effectiveness of such programs; and
4. A qualitative study to understand the effects the Trump administration era will have on institutional compliance.

### **Researcher Reflections**

The researcher began this study with the desire to understand how institutions were dealing with one of the most salient issues in higher education today. As a college administrator, her experience has been that there often is a discrepancy between federal directives at the macro level and their implementations at the micro institutional level. Politicians—full of goodwill—often impose legislation without fully appreciating or understanding the effects at the institution level. The goal through this study was to explore the compliance with those legislation and equally as important to understand the challenges that those on the ground—or in the trenches—face.

The researcher's original assumptions that compliance would not vary between institutions since the requirements do not vary was incorrect. That assumption took a simplistic view of an issue that is very complex. The researcher learned that the issue of compliance may be related to how regulations are structured. It is unfair to expect that the one-size fit all model would work across institutions without taking into consideration the diversity of organizational structures, student demographics, financial and HR, and other internal and external factors.

## **Conclusion**

More than seven years after the issuance of the 2011 DCL, schools continue to struggle in meeting federal mandates in their response to student on student sexual misconduct. The one-size-fits-all model of legislation may have contributed to non-compliance as institutional resources and staffing level varies across the board based on institutional type. The lack of compliance found did not seem to be the result of willful non-compliance but rather of overwhelming legislation that institutions struggle to follow because of the complexities of their organizational structures and/or inadequate resources. College officials seem to share similar challenges and have increased their reliance on internal and external partnerships to meet those challenges. While the internal partnerships may increase the challenge of juggling multiple responsibilities as seen at Institution B, they generally serve as a support system for those overseeing the work of Title IX (Paul, 2016).

The Title IX legislative landscape is forever changing and evolving. It remains unclear what effect the 2017 withdrawal of the 2011 and 2015 DCLs by the Trump Administration will have on how institutions respond to reports of sexual misconduct involving their students. Despite this uncertainty, what is clear is that student on student sexual assaults will unfortunately remain an issue on college campuses throughout America.

## APPENDIX A

### SOLICITATION OF PARTICIPATION LETTER 1

Andrews University  
Leadership Department  
Slandah Dieujuste, Researcher and PhD Candidate  
4150 Administration Dr.  
Berrien Springs, MI 49104-0740  
slandah@andrews.edu/ 617.794.2432

Date

Dear Name:

I am currently a senior student affairs professional in the Chicagoland area and a PhD candidate in the Higher Education Administration program at Andrews University. I am writing to seek your assistance with my dissertation research. I have already received IRB approval from your institution. My research focuses on institutional compliance and experiences with federal Title IX regulations. The research is a multi-case study of three distinctive residential Midwestern higher education institutions, of which your institution is one of. The goals of the research study are to 1) understand the compliance level of each institution's sexual assault policies and procedures to federal mandates, 2) discover how each institution's compliance level compare with one another, 3) identify the challenges that campus officials from the institutions face in the implementation and administration of required federal mandates, and 4) explore how the campus officials are meeting their identified challenges.

The research consists of both a policy analysis and a one-hour face to face interview with 2-3 administrators from your institution. For the policy analysis portion, I am requesting the following items by DATE:

- A copy of your institution's existing sexual harassment policy and procedures and your CoC
- Any publication (pamphlets, brochures, etc.) which addresses sexual assault at your institution.

For the interview portion of the research, I have identified you as someone who can provide valuable insight regarding your institution's experience with the implementation and

administration of sexual misconduct policy. If you feel that someone else is better, please provide me with their contact information. In addition to interviewing you or the person you recommend in your stead, I would like to interview 1-2 additional administrators from your institution whose job responsibility is to respond to sexual misconduct cases. The additional administrators may include Title IX Coordinator(s), Title IX investigators, and/or administrators who oversee student conduct matters. **Please confirm your participation in the interview process by signing and returning the attached consent form to Slandah@andrews.edu by DATE.** I would like the list of 1-2 names you recommend that I interview for this study by this same date.

Your participation is greatly appreciated. All information will be kept strictly confidential. Your anonymity and that of your institution will be preserved. This study is beneficial for you and your institution. As a participant, it will afford you an opportunity to see how your institution's policies and protocols compare with federal requirements. This information may prove very useful as you revise your policies and protocols. It may also help you understand the challenges that your colleagues are facing in their responsibilities pertaining to Title IX regulations relating to sexual assault. In recognition of your assistance, I would be happy to email you a copy of the results. If you wish to receive a copy, please check the appropriate box in the assigned consent form that is attached.

If you have any questions, please do not hesitate to email me at slandah@andrews.edu or 617.794.2432. You may also contact my Dissertation Chair, Dr. Jay Brand at Andrews University. Dr. Brand may be reached at brand@andrews.edu or 269.471.3784. Your participation is greatly appreciated.

Sincerely,

Slandah Dieujuste

## APPENDIX B

### SOLICITATION EMAIL 2: FOR RECOMMENDED INTERVIEWEES



Andrews University  
Leadership Department  
Slandah Dieujuste, Researcher and PhD Candidate  
4150 Administration Dr.  
Berrien Springs, MI 49104-0740  
[slandah@andrews.edu](mailto:slandah@andrews.edu) / 617.794.2432

Date

Dear Name:

I am currently a senior student affairs professional in the Chicagoland area and a PhD candidate in the Higher Education Administration program at Andrews University. Your name was given to me by NAME OF RECOMMENDER as one of the people whose job responsibility is to respond to sexual misconduct cases on your campus. I am writing to seek your assistance with my dissertation research. I have already received IRB approval from your institution. My research focuses on institutional compliance and experiences with federal Title IX regulations. The research is a multi-case study of three distinctive residential Midwestern higher education institutions, of which I hope your institution could be one of. The goals of the research study are to 1) understand the compliance level of each institution's sexual assault policies and procedures to federal mandates; 2) discover how each institution's compliance level compare with one another; 3) identify the challenges that campus officials from the institutions face in the implementation and administration of required federal mandates; and 4) explore how the campus officials are meeting their identified challenges.

Your participation is greatly appreciated. All information will be kept strictly confidential. Your anonymity and that of your institution will be preserved. This study is beneficial for you and your institution. As a participant, it will afford you an opportunity to see how your institution's policies and protocols compare with federal requirements.

This information may prove very useful as you revise your policies and protocols. It may also help you understand the challenges that your colleagues are facing in their responsibilities pertaining to Title IX regulations relating to sexual assault. In recognition of your assistance, I would be happy to email you a copy of the results. If you wish to receive a copy, please check the appropriate box in the assigned consent form that is attached.

**Please confirm your participation in the interview process by signing and returning the attached consent form to Slandah@andrews.edu by DATE.** If you have any questions, please do not hesitate to email me at Slandah@andrews.edu or 617.794.2432. You may also contact my Dissertation Chair, Dr. Jay Brand at Andrews University. Dr. Brand may be reached at brand@andrews.edu or 269.471.3784. Your participation is greatly appreciated.

Sincerely,

Slandah Dieujuste

## APPENDIX C

### INFORMED CONSENT FORM

Andrews University  
Leadership Department  
Slandah Dieujuste, Researcher and PhD Candidate  
4150 Administration Dr.  
Berrien Springs, MI 49104-0740

**Research Title:** A Multi Case Study of Sexual Assault Policies and Procedures of Three Distinctive Residential Higher Education Institutions in the Midwest

**Introduction of Researcher:** I am Slandah (Slandie) Dieujuste, a PhD candidate in the Higher Education Administration at Andrews University. Should you have any questions about this project at any time, feel free to contact me at [slandah@andrews.edu](mailto:slandah@andrews.edu) or 617.794.2432. You may also contact my dissertation chair, Dr. Jay Brand at [brand@andrews.edu](mailto:brand@andrews.edu) or 269.471.3784.

### **Research Purpose**

The purpose of the research study is to conduct a multi-case study of two residential Midwestern higher education institutions to 1) understand the compliance level of the institutions' sexual assault policies and procedures to federal mandates; 2) discover how each institution's compliance level compare with one another; 3) identify the challenges that campus officials from the institutions face in the implementation and administration of required federal mandates; and 4) explore how the campus officials are meeting their identified challenges.

### **Scope of Research**

According to federal guidelines, sexual misconduct is a subset of sexual harassment, which includes sexual assault and unwanted sexual contact without the consent of the victim. While, the sexual harassment umbrella also includes cases of domestic violence, dating violence and stalking, the present study will focus on sexual assault or rape. This type of sexual misconduct can be defined "the coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's *consent*; or the penetration, no matter how slight, of (1) the vagina or anus of a person by any body part of another person or by an object, or (2) the mouth of a person by a sex organ of another person, without that person's consent" (*You Are Not Alone*, 2017, p. 3).

The research study consists of both a policy analysis of your institution's sexual assault policy and procedures in light of federal guidelines and one-hour face to face interviews with 2-3 administrators from your institution.

### **Explanation of Procedures**

As a participant, I will request that you share with me a copy of all policies, protocols, brochures and materials pertaining to sexual misconduct response. These materials may be in hard copy and/or electronically forms. As an interview participant, you will participate in a one-hour face to face interview with me. This interview may be audio recorded with your permission.

### **Benefits of Study**

This study seeks to provide an analysis of how the selected colleges and universities are dealing with one of the most pressing issues facing higher education institutions today. Furthermore, it will assist in the understanding of the challenges that college officials face as they try to comply with federal mandates and the ways that they are meeting their identified challenges. As a participant, it will afford you an opportunity to see how your institution's policies and protocols compare with federal requirements. This information may prove very useful as you revise your policies and protocols. In recognition of your assistance, I would be happy to email you a copy of the results. If you wish to receive a copy, please check the appropriate box below and provide your email address.

### **Statement of Confidentiality**

To safeguard the identity of institutions and interview participants, the data collected will be coded with a pseudonym. It will be stored in both paper and electronic files under the appropriate assigned name. Data will be published in aggregate form in my doctoral dissertation and may also be presented at professional meetings. Notes taken on paper will be stored securely in my locked file cabinet and transferred to an electronic folder as soon as possible. The

electronic folders will be kept in my password-protected Dropbox account. All the data will be destroyed at the conclusion of the research study.

### **Audio Recording of Interview**

\_\_\_\_\_(initial). I consent for my interview to be audio recorded.

*If you do not consent, the interview can still be conducted. If you consent, the identity of both the interviewee and institution will not be identified.*

☐ I would like a copy of the research study results email to me at this email address  
\_\_\_\_\_ (please insert email address)

### **Freedom to Withdraw From Study**

Your participation is completely voluntary. If you choose to withdraw from the study, the information gathered at that point will be destroyed and you will not be penalized.

_____ Name of Participant	_____ Date	_____ Signature
_____ Name of Researcher	_____ Date	_____ Signature
_____ Witness	_____ Date	_____ Signature

This research project has been approved by your college's Institutional Review Board.

## APPENDIX D

### INTERVIEW SCHEDULE/PROTOCOL BASED ON RESEARCH QUESTIONS\*

**What challenges do college and university officials face in their implementation and administration of federal mandates pertaining to the policies and procedures studied?**

- 1) What are some of the challenges you are facing in role pertaining to the implementation and administration of student sexual misconduct policies
- 2) Are there particular challenges that we have not yet discussed that you face in your role pertaining as it relates to student on student sexual assault cases?

**How are university officials meeting their identified challenges?**

- 3) How have you been able to meet the identified challenges?

\*When necessary, additional questions were asked to clarify provided information.



APPENDIX E

TITLE IX COMPLIANCE RUBRIC RELATED TO SEXUAL  
HARASSMENT/VIOLENCE

**Institution Pseudonym:** \_\_\_\_\_

<b>I. INTRODUCTION</b>		
Section	Yes/No	Comments/Need further clarification
1: Clear statement of the school's prohibition against sex discrimination, which includes sexual misconduct		
2: Statement of school's commitment to address sexual misconduct		
<b>II. SCOPE OF POLICY</b>		
3: Identify persons, conduct, locations (including off-campus) covered by the school's sexual misconduct policy.		
4: Clearly state policy applies to students, regardless of sexual orientation or gender identity.		
5: Provide a clear definition of the institution's confidentiality policy, which includes what information will be kept confidential, what information may be disclosed, to whom and why.		
<b>III. OPTIONS FOR ASSISTANCE FOLLOWING AN INCIDENT OF SEXUAL MISCONDUCT</b>		
6: Identify and provide contact information of trained on- and off-campus advocates.		
7: Provide emergency numbers for on- and off-campus safety, law enforcement, and other responders (e.g., the Title IX coordinator).		
8: Describe the sexual assault response team process and resources the team can provide.		
9: Identify medical care options both on- and off-campus for victims to seek treatment (e.g., SANE, local rape crisis center, local advocate who can accompany victims to a health care provider, on-campus advocacy program) and list their contact information.		
Section	Yes/No	Comments/Need further clarification
10: Identify on- and off-campus counseling and support options for victims and options for disclosing confidentially).		

Section	Yes/No	Comments/Need further clarification
11: Describe immediate and interim measures the school can provide to ensure safety and well-being of the victim (e.g., no contact order, housing, transportation, academic accommodations).		
<b>IV. TITLE IX COORDINATOR'S ROLE</b>		
12: Identify school's Title IX Coordinator and his/her role.		
<b>V. DEFINITIONS</b>		
13: Clearly define conduct prohibited by the policy (e.g., sexual harassment, hostile environment caused by sexual harassment, sexual assault, including non-consensual contact and non-consensual sexual intercourse, domestic violence, sexual exploitation, stalking, retaliation, and intimidation).		
14: Clearly define consent, to include that it is voluntary, cannot be given due to incapacitation, can be withdrawn at any time, past consent does not imply future consent, silence does not imply consent, and coercion, force, or threat invalidates consent.		
<b>VI. REPORTING POLICIES AND PROTOCOLS</b>		
15: Identify formal reporting options (e.g., criminal and institutional complaint, including contact information of individuals whom one can make a report).		
16: Identify alternatives to reporting (i.e., privileged or confidential disclosures).		
17: Explain when the school may not honor a student's request that her name not be disclosed or that the school not investigate or take disciplinary actions.		
18: Explain the school's obligations under the Clery Act, including annual reporting responsibilities of Campus Security Authorities (CSA) and school's obligation to issue timely warnings.		
19: Explain process for third party and anonymous reporting.		
20: Ensure policy prohibits retaliation against those who participate in investigatory and/or disciplinary process.		

Section	Yes/No	Comments/Need further clarification
21: Describe when the school will grant amnesty from other conduct policies violation.		
<b>VII. INVESTIGATION PROCEDURES AND PROTOCOLS</b>		
22: Identify who conducts investigations and what an investigation might entail.		
23: Specify a reasonably prompt time frame for resolving complaints.		
24: Explain processes for preserving evidence.		
25: Respondent and complainant are provided equitable rights, including the right to an advisor of choice.		
26: Set forth parameters and clarify what information may or may not be shared during a parallel investigation with law enforcement (e.g., via a Memorandum of Understanding with local law enforcement).		
27: Explain school's obligations when complainant requests confidentiality.		
<b>VIII. GRIEVANCE/ADJUDICATION PROCEDURES</b>		
28: Explain mediation is never appropriate.		
29: Preponderance of the evidence is the standard of proof.		
30: Investigation and adjudication will be conducted by trained individuals.		
31: Process by which a party may raise issues related to potential conflict of interest with investigators and adjudicators.		
32: Explain the individuals who may attend and/or participate in the process.		
33: Opportunities for both parties to present witnesses		
34: If the school allows for cross examination, provide methods that can be put in place to prevent the parties from questioning one another.		
35: Provide list of possible sanctions.		
36: Outline how the parties will be informed of the results of the process.		
37: Describe appeal process for both parties.		

<b>IX. PREVENTION, EDUCATION, AND TRAINING</b>		
Section	Yes/No	Comments/Need further clarification
38: Outline the school's approach to prevention programming and educational/outreach activities for students.		
39: Outline the school's approach to educational and training activities for employees.		

#### **I. Introduction**

1. Clear statement of the school's prohibition against sex discrimination, which includes sexual misconduct (I.1.)
2. Statement of school's commitment to address sexual misconduct (I.2)

#### **II. Scope of the Policy**

3. Identify persons, conduct, locations (including off-campus) covered by the school's sexual misconduct policy (II.3)
4. Clearly state policy applies to students, regardless of sexual orientation or gender identity (II.4)
5. Provide a clear definition of the institution's confidentiality policy, which includes what information will be kept confidential, what information may be disclosed, to whom and why (II.5)

#### **III. Options for Assistance Following an Incident of Sexual Misconduct**

6. Identify and provide contact information of trained on-and –off campus advocates (III.6)
7. Provide emergency numbers for on- and off-campus safety, law enforcement, and other responders (e.g., the Title IX coordinator) (III.7)
8. Describe the sexual assault response team process and resources the team can provide (III.8)
9. Identify medical care options both on- and off- campus for victims to seek treatment (e.g., SANE, local rape crisis center, local advocate who can accompany victims to a health care provider, on-campus advocacy program) and list their contact information (III.9)
10. Identify on- and off- campus counseling and support options for victims and options for disclosing confidentially) (III.10)
11. Describes immediate and interim measures the school can provide to ensure safety and well-being of the victim (e.g., no contact order, housing, transportation, academic accommodations) (III.11)

#### **IV. Title IX Coordinator's Role**

12. Identify school's Title IX Coordinator and his/her role (IV.12)

## **V. Definitions**

13. Clearly define conduct prohibited by the policy (e.g., sexual harassment, hostile environment caused by sexual harassment, sexual assault, including non-consensual contact and non-consensual sexual intercourse, domestic violence, sexual exploitation, stalking, retaliation, and intimidation) (V.13)
14. Clearly define consent, to include that it is voluntary, cannot be given due to incapacitation, can be withdrawn at any time, past consent does not imply future consent, silence does not imply consent, and coercion, force, or threat invalidates consent (V.14)

## **VI. Reporting Policies and Protocols**

15. Identify formal reporting options (e.g., criminal and institutional complaint, including contact information of individuals whom one can make a report) (VI.15)
16. Identify alternatives to reporting (i.e., privileged or confidential disclosures) (VI.16)
17. Explain when the school may not honor a student's request that her name not be disclosed or that the school not investigate or take disciplinary actions (VI.17)
18. Explain the school's obligations under the Clery Act, including annual reporting responsibilities of Campus Security Authorities (CSA) and school's obligation to issue timely warnings (VI.18)
19. Explain process for third party and anonymous reporting (VI.19)
20. Ensure policy prohibits retaliation against those who participate in investigatory and/or disciplinary process (VI.20)
21. Describe when the school will grant amnesty from other conduct policies violation (VI.21)

## **VII. Investigation Procedures and Protocols**

22. Identify who conducts investigations and what an investigation might entail (VII.22)
23. Specify a reasonably prompt time frame for resolving complaints (VII.23)
24. Explain processes for preserving evidence (VII.24)
25. Respondent and complainant are provided equitable rights (VII.25)
26. Set forth parameters and clarify what information may or may not be shared during a parallel investigation with law enforcement (e.g. via a Memorandum of Understanding with local law enforcement) (VII.26)
27. Explains school's obligations when complainant requests confidentiality (VII.27)

## **VIII. Grievance/adjudication Procedures**

28. Explain mediation is never appropriate (VIII.28)
29. Preponderance of the evidence is the standard of proof (VIII.29)
30. Investigation and adjudication will be conducted by trained individuals (VIII.30)
31. Process by which a party may raise issues related to potential conflict of interest with investigators and adjudicators (VIII.31)
32. Explain the individuals who may attend and/or participate in the process (VIII.32)
33. Opportunities for both parties to present witnesses (VIII.33)

- 34. If the school allows for cross examination, provide methods that can be put in place to prevent the parties from questioning one another (VIII.34)
- 35. Provide list of possible sanctions (VIII.35)
- 36. Outline how the parties will be informed of the results of the process (VIII.36)
- 37. Describe appeal process for both parties (VIII.37)

**IX. Prevention, Education, And Training**

- 38. Outline the school's approach to prevention programming and educational/outreach activities for students (IX.38)
- 39. Outline the school's approach to educational and training activities for employees (IX.39)

Adapted from the Checklist developed by the 2014 White House Task Force to Protect Students From Sexual Assault.

## APPENDIX F

### APPLICATION FOR APPROVAL OF HUMAN SUBJECTS RESEARCH





Office of Research and Creative Scholarship  
Institutional Review Board  
(269) 471-6361 Fax: (269) 471-6246 E-mail: [irb@andrews.edu](mailto:irb@andrews.edu)  
Andrews University, Berrien Springs, MI 49104-0355

## APPLICATION FOR APPROVAL OF HUMAN SUBJECTS RESEARCH

Please complete this application as thoroughly as possible. Your application will be reviewed by a committee of Andrews University IRB, and if approved it will be for one year. Beyond the one year you will be required to submit a continuation request. It is the IRB's responsibility to assign the level of review: Exempt, Expedited or Full. It is your responsibility to accurately complete the form and provide the required documents. Should your application fall into the exempt status, you should expect a response from the IRB office within 2 weeks; Expedited within 2 weeks and a Full review 4-6 weeks.

Please complete the following application:

<b>1. Research Project</b>			
a) Title: A Multi Case Study of Sexual Assault Policies and Procedures of Three Distinctive Residential Higher Education Institutions in the Midwest.			
Will the research be conducted on the AU campus? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, please indicate the location(s) of the study and attach an institutional consent letter that references the researcher's study.			
<hr/>			
<hr/>			
<hr/>			
b) What is the source of funding (please check all that apply)			
<input checked="" type="checkbox"/> Unfunded			
<input type="checkbox"/> Internal Funding		Source:	
<input type="checkbox"/> External Funding		Sponsor/Source:	
Grant title:		Award # / Charging String:	
<i>If you do not know the funding/grant information, please obtain it from your department</i>			
<b>2. Principal Investigator (PI)</b>			
<b>First Name:</b> Slandah	<b>Last Name:</b> Dieujuste	<b>Telephone:</b> 617.794.2432	<b>E-mail:</b> <a href="mailto:slandah@andrews.edu">slandah@andrews.edu</a>
<input checked="" type="checkbox"/> Yes I am a student. If so, please provide information about your faculty advisor below.			
<b>First Name:</b> Jay	<b>Last Name:</b> Brand	<b>Telephone:</b> 269.471.3784	<b>E-mail:</b> <a href="mailto:brand@andrews.edu">brand@andrews.edu</a>

<b>Advisor's signature:</b>			
<b>Department:</b> Leadership Administration		<b>Program:</b> Higher Education	
<b>3. Co-investigators (Please list their names and contact information below)</b>			
<b>First Name:</b>	<b>Last Name:</b>	<b>Telephone:</b>	<b>E-mail:</b>
<b>First Name:</b>	<b>Last Name:</b>	<b>Telephone:</b>	<b>E-mail:</b>
<b>First Name:</b>	<b>Last Name:</b>	<b>Telephone:</b>	<b>E-mail:</b>
<b>First Name:</b>	<b>Last Name:</b>	<b>Telephone:</b>	<b>E-mail:</b>
<b>4. Cooperating Institutions</b>			
Is this research being done in cooperation with any institutions, individuals or organizations not affiliated with AU? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   If yes, please provide the names and contact information of authorized officials below.			
<b>Name of Organization:</b>		<b>Address:</b>	
Governors State University 1 University Park, IL 60484			
<b>First Name:</b>	<b>Last Name:</b>	<b>Telephone:</b>	<b>E-mail:</b>
Jackson College 2111 Emmons Road, Jackson, MI 49201			
<b>First Name:</b>	<b>Last Name:</b>	<b>Telephone:</b>	<b>E-mail:</b>
Loyola University 1032 W Sheridan Road Chicago, IL 60660			
Have you received IRB approval from another institution for this study? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please attach a copy of the IRB approval. Not yet			
<b>5. Participant Recruitment</b>			
Describe how participant recruitment will be performed. Include how and by whom potential participants are introduced to the study <i>(please check all below that apply)</i>			
<input type="checkbox"/> AU directory <input type="checkbox"/> Postings, Flyers <input type="checkbox"/> Radio, TV			
<input checked="" type="checkbox"/> E-mail solicitation. Indicate how the email addresses are obtained: Institution's website			
<input type="checkbox"/> Web-based solicitation. Specify sites:			
<input type="checkbox"/> Participant Pool. Specify what pool:			
<input checked="" type="checkbox"/> Other, please specify: Recommendations from each university's senior student affairs officials			
<i>Please attach any recruiting materials you plan to use and the text of e-mail or web-based solicitations you will use.</i>			
<b>6. Participant Compensation and Costs</b>			
Are participants to be compensated for the study? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, what is the amount, type and source of funds?			
<b>Amount:</b>		<b>Source:</b>	<b>Type:</b>
Will participants who are students be offered class credit? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA			
Are other inducements planned to recruit participants? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please describe.			
Are there any costs to participants? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please explain.			
<b>7. Confidentiality and Data Security</b>			

Will personal identifiers be collected? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Will identifiers be translated to a code? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Will recordings be made (audio, video)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe. Audio recording of face to face interviews	
Who will have access to data (survey, questionnaires, recordings, interview records, etc.)? Please list below.	
The principal investigator will have access	
<b>8. Conflict of Interest</b>	
Do you (or any individual who is associated with or responsible for the design, the conduct of or the reporting of this research) have an economic or financial interest in, or act as an officer or director for, any outside entity whose interests could reasonably appear to be affected by this research project: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, please provide detailed information to permit the IRB to determine if such involvement should be disclosed to potential research subjects.	
<b>9. Results</b>	
To whom will you present results (highlight all that apply)	
<input type="checkbox"/> Class <input type="checkbox"/> Conference <input type="checkbox"/> Published Article <input checked="" type="checkbox"/> Other If other, please specify: The results from each institution may be shared with the institution	
<b>10. Description of Research Subjects</b>	
If human subjects are involved, please highlight all that apply: <input type="checkbox"/> Minors (under 18 years) <input type="checkbox"/> Prison inmates <input type="checkbox"/> Mentally impaired <input type="checkbox"/> Physically disabled <input type="checkbox"/> Institutionalized residents <input type="checkbox"/> Anyone unable to make informed decisions about participation <input type="checkbox"/> Vulnerable or at-risk groups, e.g., poverty, pregnant women, substance abuse population	
<b>11. Risks</b>	
Are there any potential damage or adverse consequences to researcher, participants, or environment? These include physical, psychological, social, or spiritual risks whether as part of the protocol or a remote possibility. Please highlight all that apply (Type of risk):	
<input type="checkbox"/> Physical harm <input type="checkbox"/> Psychological harm <input type="checkbox"/> Social harm <input type="checkbox"/> Spiritual harm	
<b>12. Content Sensitivity</b>	
Does your research address culturally or morally sensitive issues? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If yes, please describe:	

Although the research study involves the sensitive subject of sexual assaults, it will only focus on policies. The research includes content analysis of sexual assault processes and procedures. The interview will focus on administrators' experiencing with the implementation and administration of those policies and procedures

**13. Please provide (type in or copy - paste or attach) the following documentation in the boxes below:**

**Protocol :**

*Please see the attached.*

**Survey instrument or interview protocol:** *Please see the attached.*

**Institutional approval letter (if off AU campus):**

**Consent form (for interviews and focus groups):** *Please see the attached.*

**Participants recruitment documents:** *Please see the attached.*

**Principal Investigator's Assurance Statement for Using Human Subjects in Research**

\_\_\_\_\_ I certify that the information provided in this IRB application is complete and accurate.

**x** I understand that as Principal Investigator, I have ultimate responsibility for the conduct of IRB approved studies, the ethical performance of protocols, the protection of the rights and welfare of human subjects, and strict adherence to the study's protocol and any stipulation imposed by Andrews University Institutional Review Board.

**x** I will submit modifications and / or changes to the IRB as necessary prior to implementation.

☒ I agree to comply with all Andrews University's policies and procedures, as well as with all applicable federal, state, and local laws, regarding the protection of human participants in research.

☒ My advisor has reviewed and approved my proposal.

APPENDIX G

RESEARCH PROTOCOL

# A MULTI CASE STUDY OF SEXUAL ASSAULT POLICIES AND PROCEDURES OF THREE RESIDENTIAL HIGHER EDUCATION INSTITUTIONS IN THE MIDWEST

## **Objectives**

### Purpose of the Study

The purpose of the research study is to conduct a multi-case study of three residential Midwestern higher education institutions to 1) understand the compliance level of the institutions' sexual assault policies and procedures to federal mandates; 2) discover how each institution's compliance level compare with one another; 3) identify the challenges that campus officials from the institutions face in the implementation and administration of required federal mandates; and 4) explore how the campus officials are meeting their identified challenges.

### Guiding Research Questions

- 1) How compliant are the institutions' student on student sexual assault policies and procedures to federal guidelines?
- 2) How do the sexual assault policies and procedures of the three Midwestern residential higher education institutions compare with one another in terms of their compliance to federal mandates?
- 3) What challenges do college and university officials face in their implementation and administration of federal mandates pertaining to the policies and procedures studied?
- 4) How are university officials meeting their identified challenges?

## **Background and Rationale**

Sexual misconduct is a public health and safety issue affecting most if not all higher education institutions in the United States (Fisher, Cullen, & Turner, 2000; Lawyer et al., 2010). Over the past fifteen years, student on student sexual misconduct cases occurring on American college and university campuses have caught the attention of the federal government and put the American public on high alert. Although cases of sexual misconduct have always been prevalent on college campuses, the degree to which such cases are discussed in the media or openly on college campuses is new. Since 2012, complaints of sexual assault involving students to the U.S. DOE have increased more than fivefold, reaching 96 in 2013 amid heightened pressure (Binkley & Wagner, 2014). As a response to public outcry, Congress enacted several laws that impose requirements on institutions from how they address cases of sexual assault to how and when they publish crime statistics.

According to federal guidelines, sexual misconduct is a subset of sexual harassment, which includes sexual assault and unwanted sexual contact without the consent of the victim. While, the sexual harassment umbrella also includes cases of domestic violence, dating violence and stalking, the present study will focus on sexual assault or rape. This type of sexual misconduct can be defined as conduct that involves the penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim (Department of Justice, 2012).

The problem of sexual assault on college and university campuses can be broadly conceptualized to include both male and female student victims as well as employees.



However, the present study will focus on male students victimizing female students because research has shown that female students face a high risk of victimization by male students (Center for Disease Control and Prevention, 2010). According to several research studies, one out of five women are sexually victimized while in college (Center for Disease Control and Prevention, 2010; Fisher et al., 2000; Karjane et al., 2002; Research on Rape and Violence Report, 2008; White House Task Force to Protect Students from Sexual Assault, 2014). In a national study, the National Institute of Justice (2000) concluded that for every 1,000 women attending an institution, there may well be 35 incidents of rape in a given academic year (based on a victimization rate of 35.3 per 1,000 college women). Thus, for a campus with 10,000 women, the number of rapes could exceed 350. Projecting these figures over the Nation's female students of several million suggests that the problem of sexual assault among college women is of epic proportion and must be a public policy interest.

The response to sexual assault cases is often complicated because alcohol is almost always a factor in college women sexual victimization (Benson et al., 2007; Griffin, Umstattd, & Usdan 2010; Krebs et al., 2007). A national survey published by Harvard School of Public Health in 2004 found that 72% of sexual assault victims experienced rape while intoxicated. Another study (Lawyer, Resnick, Bakanic Burkett, & Kilpatrick, 2010) found that 96.1% of the women victims surveyed consumed alcohol prior to the assault. This study supports other research (Finley & Corty, 1993; Testa & Livingston, 2009), which found that alcohol was more commonly involved than was force in sexual assault among college women.

Whether or not alcohol was involved in a sexual assault, the physical, emotional and psychological impact of such assault on a victim is inescapable. Victims of sexual assault are more likely to suffer academically, from depression, from post-traumatic stress disorder, and to abuse alcohol and drugs, and to contemplate suicide (Edwards, Kearns, Calhoun, & Gidycz, 2009; Guerette & Caron, 2007). In addition to these consequences, women victims often choose not to return to campus for fears of facing their attackers again. Furthermore, female victims of acquaintance rape, where the attacker is known by the victim, often suffer from shock, humiliation, loss of self-esteem, social isolation, anger, distrust of others, fear of AIDS, guilt and sexual dysfunction (Sampson 2002; Yeater & O'Donohue, 1999 as cited in O'Callaghan, 2007).

The prevalence of sexual assault or rape on college campuses and its adverse effects on the victims' academic, social and psychological health have made these type of cases high priority for the federal government. This has resulted in an unprecedented number of legislation tying federal funding to how institutions respond to sexual assault cases on their campuses. Title IX of the Education Amendment of 1972 is an example of such legislation. In 2011, the U.S. DOE OCR issued a Guidance Letter expanding the interpretation of Title IX to apply to student on student sexual assault. Following this "2011 Dear Colleague Letter," the OCR placed 55 colleges and universities under investigations for their alleged failures to effectively and promptly respond to sexual assault cases in accordance with federal guidelines. As of December 2015, the list of schools under OCR investigation expanded to 155.

Despite the prevalence of sexual assaults on college campuses and its disruption of victims' lives and the college community, a large number of institutions fall short of

adequately addressing the problem as dictated by federal guidelines (U.S. Senate report, 2014; US Department of Justice, 2002). Both the 2014 congressional report commissioned by Senator Claire McCaskill and the White House 2014 Task Force on Sexual Assault noted that one of the reasons why rape is such an underreported crime on college and university campuses (National Center, 1992; Fisher, B., Cullen, F., Turner, M. 2000) is that there is a lack of appropriate processes and procedures in place for dealing with sexual assault cases.

Although several studies have examined the scope of sexual assault on college campuses (Fisher et al., 2000; Karjane et al., 2002) and the effects on victims (Guerette & Caron, 2007; Gutierrez et al., 2000), little research have been conducted as a qualitative comparative analysis of the sexual assault policies and procedures of community colleges, 4 year public and 4 year private institutions, particularly in relation to their compliance with federal guidelines. Furthermore, very few studies have sought to understand the challenges that administrators face in their implementation and administration of such policies and procedures and how they respond to those challenges.

Given higher education institutions' dependence on federal funding and their mission to ensure student success, an in-depth analysis of the content of their sexual assault policies and procedures will shed light on how they are dealing with one of the major issues facing college female students in American higher education institutions. In addition, understanding the challenges that administrators are facing in the implementation and administration of sexual assault policies and procedures may shed light on the difficulties that exist at the institutional level that may not be apparent to lawmakers.

A college education is often viewed as the gateway to opportunity with substantial benefits for both individuals and society (Baum, & Payea, 2010). According to the College Board Report, *Education Pays* (2010), higher education has substantial benefits for individuals and society. While a college degree does not guarantee a job, those with a college degree have been found less likely to be unemployed. Higher education does not only have substantial benefits for individuals, but also contributes positively to society. The fact that Higher education leads to low poverty and unemployment rate means that there are less people who are in need of supports of social services. The College Board report found that people with a college education are less likely to be obese and smoke. College degree holders are more socially and civically engaged. They are more likely to vote, volunteer and donate blood. Thus, a well- educated citizenry benefits society in ways that include lower unemployment rate and low dependency on social safety nets.

A sexual assault can negatively impact the opportunity that student victims have to obtain a college degree, and thus, threatens their quality of life and contributions to society. Sexual assault victims are more likely to suffer academically and from depression, post-traumatic stress disorder, to abuse alcohol and drugs, and to contemplate suicide (Guerette & Caron, 2007; Gutierrez, et al., 2000). Research has shown that four out of five rape victims subsequently suffer from chronic physical or psychological conditions (American Medical Association, 1995 as cited in Guerette & Carron, 2007). In addition, female victims often choose not to return to campus for fear they may face their attacker again. Victims often have negative evaluations of instructor interactions, lowered feelings of acceptance on campus, and decreased academic self-confidence (Cortina et al, 1998 as cited in O'Callaghan, 2007)

The societal cost of sexual assault is also tremendous. The annual sexual victim costs are \$127 billion (excluding child sex abuse cases), followed by assault at \$93 billion per year, murder (excluding arson and drunk driving) at \$61 billion per year, and child abuse at \$56 billion per year (Miller, Cohen, & Wierama, 1996 as cited in Krebs; Lindquist, Warner, Fisher, & Martin, 2007). Given the importance of a college education for victims of rape, as well as the societal costs for those that experience this trauma, addressing the issues of sexual assault must be a priority for educators and policy makers.

### Significance of Study

Sexual assault is a real concern at American higher education institutions. Increased federal and public pressures as well as civil litigations will continue to ensure that addressing sexual assault on college campuses be an institutional priority. Research has shown that victims do not often report assault because of shame, embarrassment and fear of not being believed (Fisher, Cullen, Turner, 2000; Sable et al., 2006). Those who do report often experience a multitude of institutional barriers that prevent them from obtaining justice (Jones et al.2009; Karjane et al., 2002). Institutional policies regarding sexual misconduct can either encourage or discourage victims from seeking help, which can directly impact their recovery. Ineffective or inadequate policies could have a chilling effect on reporting and thereby impact the safety and cohesiveness of the college community and increase the vulnerability of the institution to civil litigations and federal penalties.

The United States federal government has made clear that sexual harassment/misconduct policies at higher education institutions is a national priority. In their 2011 DCL to colleges and universities, the OCR “advises recipients [of Title IX funding] to examine

their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the 2001 Guidance” (p.6). In introducing the new sexual assault guidelines in a press conference at the University of New Hampshire on April 4, 2011, Vice President Joe Biden, exclaimed, "Rape is rape is rape. The sooner universities make that clear, the sooner we'll begin to make progress” (Travers & Bradley, 2011, para. 3). Thus, the federal scrutiny over how higher education institutions respond to sexual assault will continue to increase.

There often exists a discrepancy between directives issued at the macro level of the federal government and the micro implementation of those directives into policies and procedures at the higher education institutional level. This study seeks to provide an analysis of how the selected colleges and universities are dealing with one of the most pressing issues facing higher education institutions today. Furthermore, it will assist in the understanding of the challenges that college officials face as they try to comply with federal mandates. This is crucial as it may provide policy makers with insight into the work of the officials charged with the implementation and administration of enacted policies. This may assist in identifying ways to help college officials meet their identified challenges.

## **Procedures**

### **Research Design**

This study will utilize a qualitative research approach. Three distinctly different residential institutions in the Midwest will form the sample size for this study: one private

4 year university, one community college, and one 4 year public university. All three institutions provide on-campus housing for students. To answer questions 1 and 2, a policy analysis of the sexual assault policies and procedures of each institution will be conducted. Participating institutions will be asked to share all policies, protocols, brochures and materials pertaining to sexual misconduct response. The Compliance Rubric, which will be developed from the federal taskforce's Checklist for Campus Sexual Misconduct Policies, will be utilized to measure institutional compliance. Each institution's policies and procedures will be analyzed against the rubric to understand how compliant they are to federal guidelines. The compliance level of each institution will then be compared with one another to understand if there are common or unique elements pertaining to their compliance. To answer questions 3 and 4, semi-structured face to face interviews will be conducted with 2-3 key administrators from each institution to understand the challenges that they face in their implementation and administration of sexual assault policies and how they are meeting the identified challenges.

### Sample

The three institutions that will be studied are located in the Midwestern region of the United States and provide on-campus housing for their students. The Midwest region is selected because of its proximity to the researcher. Institutions that provide on-campus housing are selected because research shows that many sexual assaults take place in the college dormitories (Krebs et al, 2007). The selected institutions are Governors State University, a public four year residential university located in University Park, IL with a total student population of 5,938; Elmhurst College, a private residential institution

located in Elmhurst, IL with a student population of 3,350; and Jackson College, a community College located in Jackson, MI with a student population of 5,487. The selection of the three identified institutions represent a convenience sample.

Convenience sampling have both disadvantages and advantages. Some of its advantages is that it saves time, money and effort. However, some its limitation are that it may compromise credibility and information. Despite the identified challenges of convenience sampling, this type of sampling is appropriate for this research study. The issues of compliance with sexual assault federal mandates is sensitive for many institutions as they work diligently to avoid being placed on the OCR's investigation list. The fact that the selected institutions are somewhat familiar with the researcher may be helpful in providing the researcher access to their information.

Two to four administrators from each institutions will make up the sample size of the face to face semi-structured interviews. The administrators that will be selected represent purposeful sampling; they are administrators who work directly with sexual assault issues. They include, the senior student affairs administrator who oversees student conduct at and 1-2 additional administrators who work directly with sexual assault policies will be interviewed. For example, these individuals may be serving in the roles of a Title IX Coordinator, DOS, and Director of Student Conduct. Purposeful sampling is most effective for the sample of this study because the participants will be able to inform an understanding of the research problem through their interviews. These administrators will have direct experience implementing and/or administering sexual assault policies and procedures, they will be able to be more effectively engaged in the research study.



## **Measurement/Instrumentation**

The Compliance Rubric that will be used for this study was developed using the Checklist for Campus Sexual Misconduct Policies. This checklist was created by the Task Force to Protect Students from Sexual Assault (TFPSSA), an initiative of the You are Not Alone campaign sponsored by the U.S. federal government. According to the task force, the checklist, “highlights elements that are particularly important for institutions to consider when drafting sexual misconduct policies as part of their overall response to sexual misconduct” (p1). While there is no one size fits all model in regards to sexual assault response, the checklist highlights essential elements that schools should consider when drafting their policy. Thus, using the TFPSSA’s checklist to develop the Compliance Rubric for this study, ensures that the instrumentation accurately reflects federal compliance.

An analysis of the TFPSSA’s checklist yielded 43 components that institutions should have in their policy. For the purpose of this study, the components were reduced to the following 39 components which formed the Compliance Rubric:

### **I. Introduction**

1. Clear statement of the school’s prohibition against sex discrimination, which includes sexual misconduct
2. Statement of school’s commitment to address sexual misconduct

### **II. Scope of the Policy**

3. Identify persons, conduct, locations (including off-campus) covered by the school’s sexual misconduct policy
4. Clearly state policy applies to students, regardless of sexual orientation or gender identity
5. Provide a clear definition of the institution’s confidentiality policy, which includes what information will be kept confidential, what information may be disclosed, to whom and why.

### **III. Options for Assistance Following an Incident of Sexual Misconduct**

6. Identify and provide contact information of trained on-and –off campus advocates
7. Provide emergency numbers for on- and off-campus safety, law enforcement, and other responders (e.g., the Title IX coordinator)
8. Describe the sexual assault response team process and resources the team can provide
9. Identify medical care options both on- and off- campus for victims to seek treatment (e.g., Sexual Assault Nurse Examiner, local rape crisis center, local advocate who can accompany victims to a health care provider, on-campus advocacy program) and list their contact information.
10. Identify on- and off- campus counseling and support options for victims and options for disclosing confidentially)
11. Describes immediate and interim measures the school can provide to ensure safety and well-being of the victim (e.g., no contact order, housing, transportation, academic accommodations)

#### **IV. Title IX Coordinator’s Role**

12. Identify school’s Title IX Coordinator and his/her role

#### **V. Definitions**

13. Clearly define conduct prohibited by the policy (e.g., sexual harassment, hostile environment caused by sexual harassment, sexual assault, including non-consensual contact and non-consensual sexual intercourse, domestic violence, sexual exploitation, stalking, retaliation, and intimidation)
14. Clearly define consent, to include that it is voluntary, cannot be given due to incapacitation, can be withdrawn at any time, past consent does not imply future consent, silence does not imply consent, and coercion, force, or threat invalidates consent

#### **VI. Reporting Policies and Protocols**

15. Identify formal reporting options (e.g., criminal and institutional complaint, including contact information of individuals whom one can make a report)
16. Identify alternatives to reporting (i.e., privileged or confidential disclosures)
17. Explain when the school may not honor a student’s request that her name not be disclosed or that the school not investigate or take disciplinary actions.
18. Explain the school’s obligations under the Clery Act, including annual reporting responsibilities of Campus Security Authorities (CSA) and school’s obligation to issue timely warnings.
19. Explain process for third party and anonymous reporting
20. Ensure policy prohibits retaliation against those who participate in investigatory and/or disciplinary process
21. Describe when the school will grant amnesty from other conduct policies violation

#### **VII. Investigation Procedures and Protocols**

22. Identify who conducts investigations and what an investigation might entail
23. Specify a reasonably prompt time frame for resolving complaints
24. Explain processes for preserving evidence
25. Respondent and complainant are provided equitable rights

26. Set forth parameters and clarify what information may or may not be shared during a parallel investigation with law enforcement (e.g. via a Memorandum of Understanding with local law enforcement).
27. Explains school's obligations when complainant requests confidentiality

### **VIII. Grievance/Adjudication Procedures**

28. Explain mediation is never appropriate
29. Preponderance of the evidence is the standard of proof
30. Investigation and adjudication will be conducted by trained individuals
31. Process by which a party may raise issues related to potential conflict of interest with investigators and adjudicators
32. Explain the individuals who may attend and/or participate in the process
33. Opportunities for both parties to present witnesses
34. If the school allows for cross examination, provide methods that can be put in place to prevent the parties from questioning one another
35. Provide list of possible sanctions
36. Outline how the parties will be informed of the results of the process
37. Describe appeal process for both parties

### **IX. Prevention, Education, and Training**

38. Outline the school's approach to prevention programming and educational/outreach activities for students
39. Outline the school's approach to educational and training activities for employees

The remaining components were not listed as separate components because of their redundancy. Instead, they were combined with similar components. Furthermore, the TFPSSA's section on Prevention and Education was combined with the Training section. The components are listed below with the section they are listed under in the TFPSSA's checklist in parenthesis:

1. Describe additional interim measures that the school may provide to complainant (Options for Assistance Following an Incident of Sexual Misconduct). This component was combined with *Section III:11 Options for Assistance Following an Incident of Sexual Misconduct* of the compliance rubric.

2. Describe disclosure and nondisclosure of information (Reporting Policies and Protocols). This component was combined with the information about confidentiality listed in *Section II: 5 Scope of Policy* of the compliance rubric.

3. Identify roles and responsibilities of IX Coordinator (Reporting Policies and Protocols). This component was combined with *Section IV: 12 Title IX Coordinator's Role* of the compliance rubric.

4. Explain that the school will take immediate steps to protect the complainant such as providing accommodations to her (Investigation Procedures and Protocol). This component was combined with *Section III: 11 Options for Assistance Following an Incident of Sexual Misconduct* of the compliance rubric.

### **Detailed Study Procedures**

Prior to the collection of data, I will obtain the name of the senior student affairs officials such as the DOS or Vice President for Student Affairs of each institution. The individuals who serve in that role at Jackson College and Governors State University are already known to the researcher. For Elmhurst College, this information will be gathered from a search of its website. I will then contact each of the three individuals via email to explain the research study and solicit their participation and assistance (See attached). In that email, I will solicit participation and request copies of procedures, policies and the names of 1-2 additional administrators who have Title IX responsibilities. The Additional interview participant(s) may include Title IX Coordinator(s) and/or administrators who oversee student conduct matters.

After completing the content analysis of the policies and procedures of the three institutions to understand their compliance level with the federal mandates, I will compare the result of each institution to find out how they compare with one another.

I will also conduct face to face semi structured interviews with 2-3 administrators from each of the three institutions. The interviews will be tape-recorded with the written permission of the interviewees. The purpose of the interviews is to understand the challenges that campus officials face in the implementation and administration of required federal mandates and how they are meeting their identified challenges. To safeguard the identity of institutions and interview participants, the data collected will be coded with a pseudonym. As data is collected, I will highlight words and sections that are striking and make marginal notes that can assist in the organization of text in terms of their similarities and differences. The data will be stored in both paper and electronic files under the appropriate assigned name. Notes taken on paper will be stored securely in a locked file cabinet and transferred to electronic folders as soon as possible. The electronic folders will be kept in the password protected Dropbox account of the Researcher. All the data will be destroyed at the conclusion of the research study.

### **Internal Validity**

There are several measures that I will take to ensure the issues of credibility, dependability and transferability. Credibility parallels the criterion of validity (both internal and external validity) in quantitative research. One way that I will deal with the issue of credibility is to clarify up front the biases that I, as a researcher, bring to the study. A second way is to make use of “member checks,” where I will send transcribed summaries of the conclusions of my interviews to each participant for review (Bloomberg

and Volpe, 2008, p77). A third measure that I will use to ensure credibility is to be honest about findings that do may not coalesce with my expectations. Discussing contrary or discrepant information will also add credibility to the study.

I will utilize several measures in order to ensure trustworthiness and transferability. The policies will be analyzed more than once to ensure that all the themes are understood.

When reading and analyzing the policies, I will take notes and jot down key words that will assist me in figuring out themes. Thick descriptions of the collected data and findings will be used to also demonstrate transferability.

### **Data Analysis**

For the policy analysis phase of the research study, I will analyze the institutional data obtained through the policy analysis by comparing it to the compliance rubric to see how many components of the required federal mandate that each institution's policy and procedures contain. Second, I will compare each institution's compliance result with one another to better understand their compliance level.

For the interview portion of the study, I will conduct a within-case analysis by exploring the themes within each institution. The interview data will be examined to see if the participants within each institution face similar challenges and have identified similar ways of meeting their identified challenges. In analyzing the challenges that officials face and how they are meeting those identified challenges, data from each site's interviews will be coded to assist in the identification of common themes.

In analyzing the data, the raw interview data will be thoroughly read in its entirety several times to make sense of it and figure out its usefulness for the study. While transcribing the interviews, I will jot down preliminary words or codes within brackets in

the margins for future reference. The codes will be written in capital letters. Texts will then be broken down based on the ideas being expressed. I will utilize Johnny Saldana's (2009) advice about creating three columns very early on to organize the data. The first column contained raw data, the second one contained preliminary notes and the third the final codes.

One of the ways to present the data is to place it in organizational matrix. I will make use of tables and illustrations to present the result from each site and themes that emerge within and across each institution.

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**M.A., Higher Education Administration**  
Boston College, Chestnut-Hill, MA, 2003

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Boston College, Chestnut-Hill, MA 02467, 2002

#### **PROFESSIONAL EXPERIENCE**

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**Associate Vice Provost**, Student Affairs  
Illinois Institute of Technology, Chicago, IL, April 2016 to Present

**Director for Community Standards**  
Illinois Institute of Technology, Chicago, IL, September 2015 to April 2016

**Assistant Director of Auxiliary Services and University Housing**  
Governors State University, University Park, IL, 2013-2015, August 2013 to August 2015

**Student Retention/Intervention Manager**  
Jackson College, Jackson, MI, June 2012 to March 2013

**Student Services Specialist**  
Jackson College, Jackson, MI, March 2011 to June 2012

**Director of Residence Life and Community Standards**  
Saint Mary's College, Notre Dame, IN, July 2007 to December 2010

**Assistant Director**, Office of Student Conduct and Conflict Resolution  
Northeastern University, Boston, MA, December 2004 to July 2007

**Judicial Program Coordinator**, Office of Student Conduct and Conflict Resolution  
Northeastern University, Boston, MA, August 2003 to December 2004